

**THE SECONDARY MORTGAGE LOAN ACT (EXCERPT)**  
**Act 125 of 1981**

**493.74 Licensee or registrant; prohibited conduct.**

Sec. 24. (1) A licensee or registrant shall not transfer or assign a secondary mortgage loan or a security directly representing an interest in 1 or more secondary mortgage loans before the disbursement of 75% or more of the proceeds of the secondary mortgage loan to, or for the benefit of, the borrower. This subsection shall not apply to any of the following:

- (a) A land contract not considered to be an equitable secondary mortgage.
  - (b) A loan made under a state or federal government program that allows the lender to escrow more than 25% of the proceeds for a limited period of time.
  - (c) A construction loan.
  - (d) A secondary mortgage loan that provides in writing that the loan proceeds shall be disbursed to or for the benefit of the borrower in installments or upon the request of the borrower or upon the completion of renovations or repairs to the dwelling situated on the real property subject to the secondary mortgage loan.
- (2) It is a violation of this act for a licensee or registrant to do any of the following:
- (a) Suppress or withhold from the commissioner any information that the licensee or registrant possesses that would make the licensee or registrant ineligible for licensing or registration under this act or would warrant the commissioner's denial of a license or registration application.
  - (b) Violate any provisions of 1966 PA 125, MCL 565.161 to 565.164, regulating the handling of mortgage escrow accounts by mortgagees.
  - (c) Until proper disbursement is made, fail to place in a trust or escrow account held by a depository financial institution in a manner approved by the commissioner any money, funds, deposits, checks, drafts, or other negotiable instruments received by a broker, lender, or servicer that is the portion of a payment on a secondary mortgage loan that the person is obligated to pay to a third party. The deposits shall include amounts paid to the holder of the secondary mortgage loan, amounts for property taxes and insurance premiums, and amounts paid under an agreement that requires, if the secondary mortgage loan is not closed, the amounts paid shall be refunded to the prospective borrower, or if the secondary mortgage loan is closed, the amounts paid shall be applied to fees and costs incurred at the time the secondary mortgage loan is closed. Fees and costs include, but are not limited to, title insurance premiums and recording fees. Fees and costs do not include amounts paid to cover costs incurred to process the secondary mortgage loan application, to obtain an appraisal, or to receive a credit report.
  - (d) Refuse to permit an examination or investigation by the commissioner of the books and affairs of the licensee or registrant, or refuse or fail, within a reasonable time, to furnish any information or make a report that may be required by the commissioner under this act.
  - (e) Be convicted of a felony, or any misdemeanor of which an essential element is fraud.
  - (f) Refuse or fail to pay within a reasonable time expenses assessed under this act.
  - (g) Fail to make restitution after having been ordered to do so by the commissioner or an administrative agency, or fail to make restitution or pay damages to persons injured by the licensee's or registrant's business transactions after having been ordered to do so by a court.
  - (h) Fail to make a secondary mortgage loan pursuant to, and in accordance with, a written commitment to make a secondary mortgage loan issued to, and accepted by, a person when the person has timely and completely satisfied all the conditions of the commitment prior to the expiration of the commitment.
  - (i) Require a prospective borrower to deal exclusively with the licensee or registrant in regard to a secondary mortgage loan application.
  - (j) Take a security interest in real property before closing the secondary mortgage loan to secure payment of fees assessed in connection with a secondary mortgage loan application.
  - (k) Except as otherwise provided under section 14e, knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee or registrant.

**History:** 1981, Act 125, Imd. Eff. July 23, 1981;—Am. 1997, Act 91, Imd. Eff. Aug. 1, 1997;—Am. 2002, Act 392, Imd. Eff. May 30, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**Popular name:** Secondary Mortgage Loan Act