

[No. 314]**(HB 5877)**

AN ACT to amend 1937 PA 94, entitled “An act to provide for the levy, assessment, and collection of a specific excise tax on the storage, use, or consumption in this state of tangible personal property and certain services; to appropriate the proceeds of that tax; to prescribe penalties; and to make appropriations,” by amending section 4 (MCL 205.94), as amended by 2007 PA 103.

The People of the State of Michigan enact:

205.94 Exemptions.

Sec. 4. (1) The following are exempt from the tax levied under this act, subject to subsection (2):

(a) Property sold in this state on which transaction a tax is paid under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, if the tax was due and paid on the retail sale to a consumer.

(b) Property, the storage, use, or other consumption of which this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state.

(c) All of the following:

(i) Property purchased for resale. Property purchased for resale includes promotional merchandise transferred pursuant to a redemption offer to a person located outside this state or any packaging material, other than promotional merchandise, acquired for use in fulfilling a redemption offer or rebate to a person located outside this state.

(ii) Property purchased for lending or leasing to a public or parochial school offering a course in automobile driving except that a vehicle purchased by the school shall be certified for driving education and shall not be reassigned for personal use by the school's administrative personnel.

(iii) Property purchased for demonstration purposes. For a new vehicle dealer selling a new car or truck, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediately preceding calendar year, without regard to specific make or style, according to the following schedule but not to exceed 25 cars and trucks in 1 calendar year for demonstration purposes:

(A) 0 to 25, 2 units.

(B) 26 to 100, 7 units.

(C) 101 to 500, 20 units.

(D) 501 or more, 25 units.

(iv) Motor vehicles purchased for resale purposes by a new vehicle dealer licensed under section 248(8)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.248.

(d) Property that is brought into this state by a nonresident person for storage, use, or consumption while temporarily within this state, except if the property is used in this state in a nontransitory business activity for a period exceeding 15 days.

(e) Property the sale or use of which was already subjected to a sales tax or use tax equal to, or in excess of, that imposed by this act under the law of any other state or a local governmental unit within a state if the tax was due and paid on the retail sale to the consumer and the state or local governmental unit within a state in which the tax was imposed accords like

or complete exemption on property the sale or use of which was subjected to the sales or use tax of this state. If the sale or use of property was already subjected to a tax under the law of any other state or local governmental unit within a state in an amount less than the tax imposed by this act, this act shall apply, but at a rate measured by the difference between the rate provided in this act and the rate by which the previous tax was computed.

(f) Property sold to a person engaged in a business enterprise and using and consuming the property in the tilling, planting, caring for, or harvesting of the things of the soil or in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth. This exemption includes machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for the purpose of harvesting biomass. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise and includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed to and becoming a structural part of real estate. As used in this subdivision, “biomass” means crop residue used to produce energy or agricultural crops grown specifically for the production of energy.

(g) Property or services sold to the United States, an unincorporated agency or instrumentality of the United States, an incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American red cross and its chapters or branches, this state, a department or institution of this state, or a political subdivision of this state.

(h) Property or services sold to a school, hospital, or home for the care and maintenance of children or aged persons, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans’ organization, or a corporation incorporated under the laws of this state, if not operated for profit, and if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or a restricted group. The tax levied does not apply to property or services sold to a parent cooperative preschool. As used in this subdivision, “parent cooperative preschool” means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(i) Property or services sold to a regularly organized church or house of religious worship except the following:

(i) Sales in which the property is used in activities that are mainly commercial enterprises.

(ii) Sales of vehicles licensed for use on the public highways other than a passenger van or bus with a manufacturer’s rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(j) A vessel designed for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of a vessel of 500 tons or more engaged in interstate commerce.

(k) Property purchased for use in this state where actual personal possession is obtained outside this state, the purchase price or actual value of which does not exceed \$10.00 during 1 calendar month.

(l) A newspaper or periodical classified under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published at least once a week, and a copyrighted motion picture film. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. After December 31, 1993, tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. A claim for a refund for taxes paid before January 1, 1999 under this subdivision shall be made before June 30, 1999. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax, includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(m) Property purchased by persons licensed to operate a commercial radio or television station if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmitting to or receiving from an artificial satellite.

(n) A person who is a resident of this state who purchases an automobile in another state while in the military service of the United States and who pays a sales tax in the state where the automobile is purchased.

(o) A vehicle for which a special registration is secured in accordance with section 226(9) of the Michigan vehicle code, 1949 PA 300, MCL 257.226.

(p) The sale of a prosthetic device, durable medical equipment, or mobility enhancing equipment.

(q) Water when delivered through water mains, water sold in bulk tanks in quantities of not less than 500 gallons, or the sale of bottled water.

(r) A vehicle not for resale used by a nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(s) Tangible personal property purchased and installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(t) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (h) or (i) or section 4a(1)(a) or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(u) The storage, use, or consumption of an aircraft by a domestic air carrier for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers, that has a maximum certificated takeoff weight of at least 6,000 pounds. For purposes of this subdivision, the term “domestic air carrier” is limited to a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity. The state treasurer shall estimate on January 1 each year the revenue lost by this act from the school aid fund and deposit that amount into the school aid fund from the general fund.

(v) The storage, use, or consumption of an aircraft by a person who purchases the aircraft for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 CFR part 121, for use solely in the regularly scheduled transport of passengers.

(w) Property or services sold to an organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code, 26 USC 501; or to a health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued before June 13, 1994 an exemption ruling letter to purchase items exempt from tax signed by the administrator of the sales, use, and withholding taxes division of the department. The department shall reissue an exemption letter after June 13, 1994 to each of those organizations that had an exemption letter that shall remain in effect unless the organization fails to meet the requirements that originally entitled it to this exemption. The exemption does not apply to sales of tangible personal property and sales of vehicles licensed for use on public highways, that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt organization.

(x) The use or consumption of services described in section 3a(1)(a) or (b) or 3b by means of a prepaid telephone calling card, a prepaid authorization number for telephone use, or a charge for internet access.

(y) The purchase, lease, use, or consumption of the following by an industrial laundry after December 31, 1997:

(i) Textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags.

(ii) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.

(iii) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.

(iv) Utilities such as electric, gas, water, or oil.

(v) Production washroom equipment and mending and packaging supplies and equipment.

(vi) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.

(vii) Wastewater pretreatment equipment and supplies and related maintenance and repair services.

(2) The property or services under subsection (1) are exempt only to the extent that the property or services are used for the exempt purposes if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

This act is ordered to take immediate effect.
Approved December 17, 2008.
Filed with Secretary of State December 18, 2008.

[No. 315]

(HB 6368)

AN ACT to provide for the coordination and development of certain farm-to-school procurement processes and procedures; to provide for procedures and recommendations for certain farm product producers to access school-related food programs; to provide for certain powers and duties for the departments of education and agriculture; and to provide for the dissemination of certain information to schools and farm product producers.

The People of the State of Michigan enact:

388.841 Short title.

Sec. 1. This act shall be known and may be cited as the “farm-to-school procurement act”.

388.842 Definitions.

Sec. 2. As used in this act:

- (a) “Farm product” means that term as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.
- (b) “MDA” means the Michigan department of agriculture.
- (c) “MDE” means the Michigan department of education.

388.843 Memorandum of understanding; execution between MDE and MDA; duties.

Sec. 3. (1) The MDE and the MDA shall collaborate and cooperate by means of a memorandum of understanding executed between the departments in order to implement the provisions of this act.

(2) As part of the collaboration, the MDE shall do the following:

- (a) Investigate the potential of various procurement procedures and tools for school food authorities to purchase local farm products and abide by federal regulations, including, but not limited to, the small purchase threshold and multiple or line-item awards to farmers, processors, and suppliers within larger food contracts.
- (b) Educate food service directors on the small purchase threshold and other procurement procedures and tools and promote their use for farm-to-school initiatives.
- (c) Implement food preparation training for food service staff to accommodate sourcing fresh and local foods.
- (d) Encourage school food service directors to include local farmers, processors, and suppliers when taking bids for farm products that fall under the small purchase threshold.

(e) Encourage all new school construction projects to consider kitchen facilities capable of producing fresh and healthy school meals and opportunities for hands-on learning.

(3) As part of the collaboration, the MDA shall do the following:

(a) Hire a farm-to-school point person to coordinate efforts between MDA, MDE, and the Michigan department of community health, who would be responsible for identifying local farmers, processors, and suppliers and work with MDE to make that information available to school food service directors and for creating and disseminating information on the school food procurement process to help farmers, processors, and suppliers learn more about the process.

(b) Identify, target, and promote job creation around farm-to-school initiatives.

(c) In cooperation with commodity groups and growers associations, utilize existing web-based market development tools or adopt a voluntary web-based directory of farmers searchable by location. The directory should be updated and consistently maintained and usable by anyone interested in locating farmers and Michigan farm products.

(d) Investigate opportunities for farmers to supply their products to commercial distributors.

388.844 Funds from federal, state, or private sources.

Sec. 4. The MDE and the MDA may accept funds from any federal, state, or private source to implement this act.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 316]

(SB 834)

AN ACT to amend 1976 PA 451, entitled “An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts,” by amending section 1278a (MCL 380.1278a), as added by 2006 PA 124.

The People of the State of Michigan enact:

380.1278a Requirements for high school diploma.

Sec. 1278a. (1) Except as otherwise provided in this section or section 1278b, beginning with pupils entering grade 8 in 2006, the board of a school district or board of directors of

a public school academy shall not award a high school diploma to a pupil unless the pupil meets all of the following:

(a) Has successfully completed all of the following credit requirements of the Michigan merit standard before graduating from high school:

(i) At least 4 credits in mathematics that are aligned with subject area content expectations developed by the department and approved by the state board under section 1278b, including completion of at least algebra I, geometry, and algebra II, or an integrated sequence of this course content that consists of 3 credits, and an additional mathematics credit, such as trigonometry, statistics, precalculus, calculus, applied math, accounting, business math, a retake of algebra II, a course in financial literacy as described in section 1165. A pupil may complete algebra II over 2 years with a credit awarded for each of those years for the purposes of this section and section 1278b. Each pupil must successfully complete at least 1 mathematics course during his or her final year of high school enrollment. This subparagraph does not require completion of mathematics courses in any particular sequence.

(ii) At least 3 credits in social science that are aligned with subject area content expectations developed by the department and approved by the state board under section 1278b, including completion of at least 1 credit in United States history and geography, 1 credit in world history and geography, 1/2 credit in economics, and the civics course described in section 1166(2).

(iii) At least 1 credit in subject matter that includes both health and physical education aligned with guidelines developed by the department and approved by the state board under section 1278b.

(iv) At least 1 credit in visual arts, performing arts, or applied arts, as defined by the department, that is aligned with guidelines developed by the department and approved by the state board under section 1278b.

(v) The credit requirements specified in section 1278b(1).

(b) Meets the online course or learning experience requirement of this subsection. A school district or public school academy shall provide the basic level of technology and internet access required by the state board to complete the online course or learning experience. For a pupil to meet this requirement, the pupil shall meet either of the following, as determined by the school district or public school academy:

(i) Has successfully completed at least 1 course or learning experience that is presented online, as defined by the department.

(ii) The pupil's school district or public school academy has integrated an online experience throughout the high school curriculum by ensuring that each teacher of each course that provides the required credits of the Michigan merit curriculum has integrated an online experience into the course.

(2) In addition to the requirements under subsection (1), beginning with pupils entering grade 3 in 2006, the board of a school district or board of directors of a public school academy shall not award a high school diploma to a pupil unless the pupil has successfully completed during grades 9 to 12 at least 2 credits, as determined by the department, in a language other than English, or the pupil has successfully completed at any time during grades K to 12 course work or other learning experiences that are substantially equivalent to 2 credits in a language other than English, based on guidelines developed by the department. For the purposes of this subsection, all of the following apply:

(a) American sign language is considered to be a language other than English.

(b) The pupil may meet all or part of this requirement with online course work.

(3) The requirements under this section and section 1278b for a high school diploma are in addition to any local requirements imposed by the board of a school district or board of directors of a public school academy. The board of a school district or board of directors of a public school academy, as a local requirement for a high school diploma, may require a pupil to complete some or all of the subject area assessments under section 1279 or the Michigan merit examination under section 1279g, as applicable to the pupil under section 1279g, or may require a pupil to participate in the MIAccess assessments if appropriate for the pupil.

(4) For the purposes of this section and section 1278b, all of the following apply:

(a) A pupil is considered to have completed a credit if the pupil successfully completes the subject area content expectations or guidelines developed by the department that apply to the credit.

(b) A school district or public school academy shall base its determination of whether a pupil has successfully completed the subject area content expectations or guidelines developed by the department that apply to a credit at least in part on the pupil's performance on the assessments developed or selected by the department under section 1278b or on 1 or more assessments developed or selected by the school district or public school academy that measure a pupil's understanding of the subject area content expectations or guidelines that apply to the credit.

(c) A school district or public school academy shall also grant a pupil a credit if the pupil earns a qualifying score, as determined by the department, on the assessments developed or selected for the subject area by the department under section 1278b or the pupil earns a qualifying score, as determined by the school district or public school academy, on 1 or more assessments developed or selected by the school district or public school academy that measure a pupil's understanding of the subject area content expectations or guidelines that apply to the credit.

(5) If a high school is designated by the superintendent of public instruction as a specialty school and the high school meets the requirements of subsection (6), then the pupils of the high school are not required to successfully complete the 4 credits in English language arts required under section 1278b(1)(a) or the 3 credits in social science required under subsection (1)(a)(i) and the school district or public school academy is not required to ensure that each pupil is offered the curriculum necessary for meeting those English language arts or social science credit requirements. The superintendent of public instruction may designate up to 15 high schools that meet the requirements of this subsection as specialty schools. Subject to this maximum number, the superintendent of public instruction shall designate a high school as a specialty school if the superintendent of public instruction finds that the high school meets all of the following criteria:

(a) The high school incorporates a significant reading and writing component throughout its curriculum.

(b) The high school uses a specialized, innovative, and rigorous curriculum in such areas as performing arts, foreign language, extensive use of internships, or other learning innovations that conform to pioneering innovations among other leading national or international high schools.

(6) A high school that is designated by the superintendent of public instruction as a specialty school under subsection (5) is only exempt from requirements as described under subsection (5) as long as the superintendent of public instruction finds that the high school continues to meet all of the following requirements:

(a) The high school clearly states to prospective pupils and their parents that it does not meet the requirements of the Michigan merit standard under this section and section 1278b but is a designated specialty school that is exempt from some of those requirements and

that a pupil who enrolls in the high school and subsequently transfers to a high school that is not a specialty school meeting the requirements of this subsection will be required to comply with the requirements of the Michigan merit standard under this section and section 1278b.

(b) For the most recent year for which the data are available, the mean scores on both the mathematics and science portions of the ACT examination for the pupils of the high school exceed by at least 10% the mean scores on the mathematics and science portions of the ACT examination for the pupils of the school district in which the greatest number of the pupils of the high school reside.

(c) For the most recent year for which the data are available, the high school had a graduation rate of at least 85%, as determined by the department.

(d) For the most recent year for which the data are available, at least 75% of the pupils who graduated from the high school the preceding year are enrolled in a postsecondary institution.

(e) All pupils of the high school are required to meet the mathematics credit requirements of subsection (1)(a)(i), with no modification of these requirements under section 1278b(5), and each pupil is offered the curriculum necessary to meet this requirement.

(f) All pupils of the high school are required to meet the science credit requirements of section 1278b(1)(b) and are also required to successfully complete at least 1 additional science credit, for a total of at least 4 science credits, with no modification of these requirements under section 1278b(5), and each pupil is offered the curriculum necessary to meet this requirement.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 317]

(SB 1077)

AN ACT to amend 2008 PA 290, entitled “An act to authorize the removal, capture, or lethal control of a gray wolf that is preying upon livestock under certain circumstances; and to provide for penalties,” (MCL 324.95151 to 324.95153) by adding section 5.

The People of the State of Michigan enact:

324.95155 Operation and enforcement of sections 1 and 3; conditions; notice.

Sec. 5. (1) Sections 1 and 3 shall not be operational and enforceable until 1 of the following occurs:

(a) A final appellate court issues a decision overruling the decision of the United States district court for the District of Columbia in The Humane Society of the United States v Dirk Kempthorne, civil action no. 07-0677 (D.C.C. September 29, 2008), and permits the final rule of the United States fish and wildlife service in 72 FR p 6052 (February 8, 2007) removing gray wolves located in this state from the list of endangered and threatened wildlife established under the federal endangered species act of 1973 to take effect.

(b) The United States fish and wildlife service promulgates a final rule dated after March 12, 2007 that removes gray wolves located in this state from the list of endangered

and threatened wildlife established under the federal endangered species act of 1973 and that final rule takes effect.

(2) Upon sections 1 and 3 becoming operational and enforceable pursuant to subsection (1), the department shall post a notice on the department's website that includes all of the following:

- (a) The date sections 1 and 3 are operational and enforceable pursuant to subsection (1).
- (b) A summary of the provisions of sections 1 and 3.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 318]

(SB 1084)

AN ACT to authorize the removal, capture, or lethal control of a gray wolf that is preying upon a dog under certain circumstances; to provide for penalties; and to promulgate rules.

The People of the State of Michigan enact:

324.95161 Definitions.

Sec. 1. As used in this act:

- (a) "Department" means the department of natural resources.
- (b) "Dog" includes a domesticated dog and a dog used for hunting.

324.95163 Removal, capture, or use of lethal means to destroy gray wolf; conditions; procedure.

Sec. 3. (1) The owner of a dog or his or her designated agent may remove, capture, or, if deemed necessary, use lethal means to destroy a gray wolf that is in the act of preying upon the owner's dog.

(2) The owner of the dog or his or her designated agent shall report the taking of a gray wolf to a department official as soon as practicable, but not later than 12 hours after the taking. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both, and the costs of prosecution.

(3) Except as otherwise provided in subsection (4), the owner of the dog or his or her designated agent shall retain possession of a gray wolf taken until a department official is available to take possession of and transfer the gray wolf to the appropriate department personnel for examination. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both, and the costs of prosecution.

(4) If lethal means are used to destroy a gray wolf, a person shall not move or disturb the deceased gray wolf until a department official is available to take possession of and transfer

the gray wolf to the appropriate department personnel for examination or until as otherwise directed by a department official. A person shall not disturb the area where lethal means were used to destroy a gray wolf until after an official investigation by the department is complete. If a dog is physically attacked or killed, a person who uses lethal means to destroy a gray wolf shall produce the dog that was attacked for inspection by department officials. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$100.00 or more than \$1,000.00, or both, and the costs of prosecution.

(5) A department official shall respond to the scene where lethal means were used to destroy a gray wolf not later than 12 hours after the department official is notified under subsection (2).

(6) The owner of the dog or his or her designated agent may report the taking of a gray wolf by utilizing the department's report all poaching hotline at 1-800-292-7800.

324.95165 Rules.

Sec. 5. The department may promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

324.95167 Operation and enforcement of sections 1 to 5; conditions; notice.

Sec. 7. (1) Sections 1 to 5 shall not be operational and enforceable until 1 of the following occurs:

(a) A final appellate court issues a decision overruling the decision of the United States district court for the District of Columbia in The Humane Society of the United States v Dirk Kempthorne, civil action no. 07-0677 (D.C.C. September 29, 2008), and permits the final rule of the United States fish and wildlife service in 72 FR p 6052 (February 8, 2007) removing gray wolves located in this state from the list of endangered and threatened wildlife established under the federal endangered species act of 1973 to take effect.

(b) The United States fish and wildlife service promulgates a final rule dated after March 12, 2007 that removes gray wolves located in this state from the list of endangered and threatened wildlife established under the federal endangered species act of 1973 and that final rule takes effect.

(2) Upon sections 1 to 5 becoming operational and enforceable pursuant to subsection (1), the department shall post a notice on the department's website that includes all of the following:

- (a) The date sections 1 to 5 are operational and enforceable pursuant to subsection (1).
- (b) A summary of the provisions of sections 1 to 5.

Litigation overturning removal of gray wolves from list of endangered species; report.

Enacting section 1. If any federal or state litigation overturns the decision to remove gray wolves from the list of endangered species, the Michigan department of natural resources shall report the impact of that litigation on this act to the standing committees of the legislature with jurisdiction over issues primarily dealing with natural resources and the environment.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 319]**(SB 1515)**

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending section 601 (MCL 339.601), as amended by 2007 PA 157, and by adding section 2006.

The People of the State of Michigan enact:

339.601 Practicing regulated occupation or using designated title without license or registration; operation of barber college, school of cosmetology, or real estate school without license or approval; effect of suspended, revoked, or lapsed license or registration; violation as misdemeanor; penalties; person not licensed as residential builder or residential maintenance and alteration contractor; person not licensed as architect, professional engineer, or professional land surveyor; restitution; injunctive relief; exceptions; “affected person” defined; investigation; forfeiture; remedies; performance of services by interior designer; notice of conviction to department.

Sec. 601. (1) A person shall not engage in or attempt to engage in the practice of an occupation regulated under this act or use a title designated in this act unless the person possesses a license or registration issued by the department for the occupation.

(2) A school, institution, or person shall not operate or attempt to operate a barber college, school of cosmetology, or real estate school unless the school, institution, or person is licensed or approved by the department.

(3) Subject to section 411, a person whose license or registration is suspended, revoked, or lapsed, as determined by the records of the department, is considered unlicensed or unregistered.

(4) Except as otherwise provided for in section 735, a person, school, or institution that violates subsection (1) or (2) is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 90 days, or both.

(5) Except as otherwise provided for in section 735, a person, school, or institution that violates subsection (1) or (2) a second or any subsequent time is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 1 year, or both.

(6) Notwithstanding subsections (4) and (5), a person not licensed under article 24 as a residential builder or a residential maintenance and alteration contractor who violates subsection (1) or (2) is guilty as follows:

(a) In the case of a first offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00, or imprisonment for not more than 1 year, or both.

(b) In the case of a second or subsequent offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00, or imprisonment for not more than 2 years, or both.

(c) In the case of an offense that causes death or serious injury, a felony punishable by a fine of not less than \$5,000.00 or more than \$25,000.00, or imprisonment for not more than 4 years, or both.

(7) Notwithstanding subsections (4) and (5), a person not licensed under article 20 as an architect, professional engineer, or professional land surveyor who violates subsection (1) or (2) is guilty as follows:

(a) In the case of a first offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00 or imprisonment for not more than 93 days, or both.

(b) In the case of a second or subsequent offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00 or imprisonment for not more than 1 year, or both.

(c) In the case of an offense that causes death or serious injury, a felony punishable by a fine of not less than \$5,000.00 or more than \$25,000.00 or imprisonment for not more than 4 years, or both.

(8) Any violation of this act shall include a requirement that restitution be made, based upon proofs submitted to and findings made by the trier of fact as provided by law.

(9) Notwithstanding the existence and pursuit of any other remedy, an affected person may maintain injunctive action to restrain or prevent a person from violating subsection (1) or (2). If successful in obtaining injunctive relief, the affected person shall be entitled to actual costs and attorney fees.

(10) This act does not apply to a person engaging in or practicing the following:

(a) Interior design.

(b) Residential building design. As used in this subdivision, “residential building design” means the rendering of residential design services for a detached 1- and 2-family residence building by a person exempted from the requirements of section 2012.

(c) Any activity for which the person is licensed under the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569.

(d) Any activity for which the person is licensed under the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988.

(e) Any activity for which the person is licensed under the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892.

(11) As used in subsection (9), “affected person” means a person directly affected by the actions of a person suspected of violating subsection (1) or (2) and includes, but is not limited to, a licensee or registrant, a board established pursuant to this act, the department, a person who has utilized the services of the person engaging in or attempting to engage in an occupation regulated under this act or using a title designated by this act without being licensed or registered by the department, or a private association composed primarily of members of the occupation in which the person is engaging in or attempting to engage in or in which the person is using a title designated under this act without being registered or licensed by the department.

(12) An investigation may be conducted under article 5 to enforce this section. A person who violates this section shall be subject to this section and sections 506, 602, and 606.

(13) The department, the attorney general, or a county prosecutor may utilize forfeiture as a remedy in the manner provided for in section 606.

(14) The remedies under this section are independent and cumulative. The use of 1 remedy by a person shall not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

(15) An interior designer may perform services in connection with the design of interior spaces including preparation of documents relative to finishes, systems furniture, furnishings, fixtures, equipment, and interior partitions that do not affect the building mechanical, structural, electrical, or fire safety systems.

(16) Upon entering a conviction under subsection (4), (5), or (6), a court entering the conviction shall notify, by mail, facsimile transmission, or electronic mail, the bureau of commercial services at the department.

339.2006 Maintenance of court action; allegation and proof of licensure; failure to make restitution.

Sec. 2006. (1) A person, a qualifying officer, a licensee, or an agent for a licensee under this article shall not bring or maintain an action in a court of this state for the collection of compensation for the performance of an act or contract for which licensure is required under this article without alleging and proving that the person, qualifying officer, licensee, or agent was licensed under this article during the performance of the act or contract. A person who has utilized the services of a person engaging in or attempting to engage in an occupation regulated under this article or using a title designated by this article without being licensed by the department may bring an action in a court of competent jurisdiction, or offer as a counterclaim to an action brought by an unlicensed person, for a refund of compensation after deducting the value of the goods or services retained by the person.

(2) If the department suspends a license for failure to make restitution, in whole or in part, the restitution in the form of repair or remedial corrective work shall be performed by a person appropriately licensed under this article and shall be paid for by the licensee.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 320]

(SB 1126)

AN ACT to amend 1984 PA 270, entitled “An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, certain notes and bonds of the Michigan strategic fund; to create certain boards and funds; to create certain permanent funds; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of this state; to make certain loans, grants, and investments; to provide penalties; to make an appropriation; and to repeal acts and parts of acts,” (MCL 125.2001 to 125.2094) by adding section 79.

The People of the State of Michigan enact:

125.2079 Location of renewable fuel plants; inventory of prime sites; availability on internet; assistance.

Sec. 79. (1) The fund shall identify, publish, and market an inventory of prime sites for the location of renewable fuel plants with existing industrial facilities that have by-products that renewable fuel plants could use to produce energy in this state.

(2) The fund shall make the inventory available to the public on the internet not later than January 1, 2009.

(3) Local units of government and their economic development agencies may assist the fund in its duties under this section.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 321]

(SB 1130)

AN ACT to amend 1984 PA 44, entitled “An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers and duties of certain state agencies; to prescribe certain powers of the governor; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I vapor-recovery systems at certain facilities; to provide for fees; to make appropriations; and to provide remedies and prescribe fines and penalties,” (MCL 290.641 to 290.650d) by adding section 5a.

The People of the State of Michigan enact:

290.645a Renewable fuels fund; creation; deposits; investment; funds at close of fiscal year; disbursement; department as administrator; definitions.

Sec. 5a. (1) The renewable fuels fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the renewable fuels fund. The state treasurer shall direct the investment of the renewable fuels fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(2) The state treasurer shall disburse money in the fund described in subsection (1) on a quarterly basis to the department. Beginning not later than February 1, 2009, the department shall submit to the state treasurer a summary of expenditures during the preceding year of the money received under this section.

(3) The department shall be the administrator of the fund for auditing purposes.

(4) The department shall administer the fund to do 1 or more of the following:

(a) Promote the production and use of alternative fuels.

(b) Award grants to selected recipients to improve the production of alternative fuels in this state.

(c) Encourage the development of motor fuel quality standards for renewable fuels under this act.

(d) Provide incentives to retailers who sell renewable fuels.

(e) Promote the sale of vehicles that can be powered by renewable fuels.

(5) As used in this section:

(a) “Renewable fuels” includes, but is not limited to, biodiesel, biodiesel blend, hydrogen fuel, and E85 fuel.

(b) “E85 fuel” means that term as defined in section 78 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2078.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 322]

(SB 1467)

AN ACT to amend 1967 PA 281, entitled “An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts,” by amending section 435 (MCL 206.435), as amended by 2008 PA 162.

The People of the State of Michigan enact:

206.435 Contribution designations; duration; cessation by department; insufficient refund to make contribution; appropriation.

Sec. 435. (1) Except as otherwise provided under this section, for the 2008 tax year and each tax year after the 2008 tax year, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of \$5.00, \$10.00, or more of his or her refund be credited to any of the following:

(a) For the 2010 tax year and each tax year after the 2010 tax year, the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions designated to this subdivision shall be used for the purpose of administering this section.

(b) For the 2010 tax year and each tax year after the 2010 tax year, the children’s trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(c) The prostate cancer research fund created in the prostate cancer research fund act, 2007 PA 135, MCL 333.26241 to 333.26246.

(d) Amanda's fund for breast cancer prevention and treatment created in the Amanda's fund for breast cancer prevention and treatment act, 2007 PA 134, MCL 333.26231 to 333.26237.

(e) The animal welfare fund created in the animal welfare fund act, 2007 PA 132, MCL 287.991 to 287.997.

(f) The Michigan housing and community development fund created in section 3 of the Michigan housing and community development fund act, 2004 PA 479, MCL 125.2823.

(g) The Michigan law enforcement officers memorial monument fund created in section 3 of the Michigan law enforcement officers memorial act, 2004 PA 177, MCL 28.783.

(h) For the 2009 tax year and each tax year after the 2009 tax year, the renewable fuels fund created in section 5a of the motor fuels quality act, 1984 PA 44, MCL 290.645a.

(2) The department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437 and 440 shall remain on the first page of the state individual income tax return for the 2008 and 2009 tax years, but shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after the effective date of the amendatory act that added this section shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order.

(3) The department may cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise \$100,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1130 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 323]**(HB 6618)**

AN ACT to amend 1927 PA 175, entitled “An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending section 14p of chapter XVII (MCL 777.14p), as amended by 2006 PA 251.

The People of the State of Michigan enact:

CHAPTER XVII

777.14p Applicability of chapter to certain felonies; MCL 482.44 to 493.56a(13).

Sec. 14p. This chapter applies to the following felonies enumerated in chapters 482 to 499 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
482.44	Property	H	Bills of lading — issuance for goods not received	5
482.46	Property	H	Bills of lading — issuance of duplicate negotiable bill with intent to defraud	5
482.48	Property	H	Bills of lading — negotiation when goods not in carriers' possession	5
482.49	Property	H	Bills of lading — inducing carrier to issue when goods have not been received	5
482.50	Property	H	Bills of lading — issuance of non-negotiable bill not so marked	5

487.1042(1)	Pub trst	E	Money transmission services act — intentionally making a false statement, misrepresentation, or certification in a record or document	5
487.1042(2)	Pub trst	E	Criminal fraud in the conduct of money transmission services business	5
487.1042(3)	Pub trst	E	Money transmission services act license violation	5
487.1505(6)	Pub trst	E	BIDCO act — knowingly receiving money or property at an interest rate exceeding 25%	5
492.137(a)	Pub trst	H	Installment sales of motor vehicles	3
493.56a(13)	Pub trst	C	False statement in reports — secondary mortgage	15

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1552 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

Compiler's note: Senate Bill No. 1552, referred to in enacting section 1, was filed with the Secretary of State December 18, 2008, and became 2008 PA 325, Imd. Eff. Dec. 18, 2008.

[No. 324]

(HB 6562)

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers and their loan officers; to prescribe the powers and duties of certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 33 (MCL 445.1683), as amended by 2008 PA 64.

The People of the State of Michigan enact:

445.1683 Mortgage industry advisory board; creation; requirements; communication of issues to commissioner; recommendations; “secondary mortgage loan act” defined.

Sec. 33. (1) The mortgage industry advisory board is created.

(2) All of the following apply to the board:

(a) The board shall consist of 7 individuals, appointed by the commissioner as follows:

(i) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in a licensee or registrant, selected by the commissioner from a list of at least 3 nominees provided to the commissioner by the Michigan mortgage brokers association.

(ii) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in a licensee or registrant, selected by the commissioner from a list of at least 3 nominees provided to the commissioner by the Michigan mortgage lenders association.

(iii) One employee who is an employee of, a director of, or who has at least a 25% ownership interest in a licensee or registrant that is a member of any trade association operating in this state that represents mortgage brokers, mortgage lenders, or mortgage servicers. The trade associations may recommend candidates for this position to the commissioner.

(iv) Two individuals who are employees of, are directors of, or have at least a 25% ownership interest in business entities that provide services to or purchase services from licensees or registrants.

(b) The term of a board member is 4 years, except that for the first board, the commissioner shall appoint 3 individuals for 2-year terms so that the terms of office of board members are staggered.

(c) An individual may not serve more than 2 consecutive 4-year terms, and the commissioner may not reappoint an individual who serves 2 consecutive 4-year terms on the board for at least 12 months after the end of those consecutive terms.

(d) The board shall not include more than 1 member who is employed by, is a director of, or has more than a 1% ownership interest in the same licensee, registrant, affiliate, or other person.

(e) Each member of the board shall serve without compensation. However, the office of financial and insurance services shall reimburse a member of the board for his or her travel and other expenses incurred in the performance of an official board function pursuant to the standard travel regulations of the department of management and budget.

(f) The board shall retain minutes of its meetings and any other records of the board for at least 10 years. The board shall make its minutes and any other records prepared, owned, used, in the possession of, or retained by the board in the performance of an official function available to the commissioner immediately on request and make those minutes and records available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The board shall communicate to the commissioner issues of concern to the residential mortgage industry and shall review and make recommendations to the commissioner concerning all of the following:

(a) Course sponsors or providers, course instructors, and the content of and materials for courses provided to loan officers and loan officer applicants under section 2a or 2b or section 2a or 2c of the secondary mortgage loan act, MCL 493.52a and 493.52c.

(b) Content and procedures for examinations given to loan officers under section 2a or section 2a of the secondary mortgage loan act, MCL 493.52a.

(c) Rules proposed under this act or the secondary mortgage loan act.

(d) Procedures to verify attendance at and participation in courses conducted electronically under section 2b(3)(e) or under section 2c(3)(e) of the secondary mortgage loan act, MCL 493.52c.

(e) Procedures for maintaining the confidentiality of personal identifying information and other information concerning all of the following:

(i) Licensees, registrants, and loan officer registrants.

(ii) Applicants for licensure, registration, or loan officer registration.

(iii) Licensees, registrants, and secondary mortgage loan officer registrants under the secondary mortgage loan act.

(iv) Applicants for licensure, registration, or secondary mortgage loan officer registration under the secondary mortgage loan act.

(f) Any other issue referred to the board by the commissioner.

(4) As used in this section, “secondary mortgage loan act” means the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 1552.
- (b) Senate Bill No. 1553.
- (c) Senate Bill No. 1554.
- (d) Senate Bill No. 1555.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 1552 was filed with the Secretary of State December 18, 2008, and became 2008 PA 325, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1553 was filed with the Secretary of State December 18, 2008, and became 2008 PA 326, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1554 was filed with the Secretary of State December 18, 2008, and became 2008 PA 327, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1555 was filed with the Secretary of State December 18, 2008, and became 2008 PA 328, Imd. Eff. Dec. 18, 2008.

[No. 325]

(SB 1552)

AN ACT to amend 1981 PA 125, entitled “An act to regulate secondary mortgage loans; to prescribe powers and duties of certain state agencies and officials; to require certain fees; to provide for the establishment of a revolving fund; to provide for the promulgation of rules; and to prescribe civil fines and penalties,” by amending the title and sections 1, 2, 6, 6a, 6b, 11, 13, 20, 22, and 27 (MCL 493.51, 493.52, 493.56, 493.56a, 493.56b, 493.61, 493.63, 493.70, 493.72, and 493.77), the title and sections 6, 11, 13, 20, 22, and 27 as amended and section 6a as added by 1997 PA 91, sections 1 and 6b as amended by 2002 PA 392, and section 2 as amended by 2007 PA 46, and by adding sections 2a, 2b, 2c, 2d, and 26a.

The People of the State of Michigan enact:

TITLE

An act to regulate secondary mortgage loans; to regulate secondary mortgage brokers, lenders, servicers, and loan officers; to prescribe powers and duties of certain state agencies and officials; to require certain fees; to provide for the establishment of a revolving fund; to provide for the promulgation of rules; and to provide remedies and prescribe penalties.

493.51 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as “the secondary mortgage loan act”.

(2) As used in this act:

(a) “Broker” means a person who, directly or indirectly, does 1 or both of the following:

(i) Serves or offers to serve as an agent for a person attempting to obtain a secondary mortgage loan.

(ii) Serves or offers to serve as an agent for a person who makes or offers to make a secondary mortgage loan.

(b) “Commissioner” means the commissioner of the office of financial and insurance regulation of the department of energy, labor, and economic growth or his or her authorized representatives.

(c) “Control person” means a director or executive officer of a licensee or registrant or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee or registrant.

(d) “Depository financial institution” means a state or nationally chartered bank, state or federal chartered savings and loan association, savings bank, or credit union, or any other institution whose deposits are insured by an agency of the federal government.

(e) “Exclusive broker” means a person that brokers secondary mortgage loans solely to 1 licensee or registrant, is compensated solely by that licensee or registrant, and is indemnified by the licensee or registrant as provided in section 6. The actions or practices of an exclusive broker in brokering a secondary mortgage loan are the actions or practices of the licensee or registrant.

(f) “Executive officer” means an officer, member, or partner of a licensee or registrant. The term includes the chief executive officer, president, vice president, chief financial officer, controller, or compliance officer, or an individual holding any other similar position.

(g) “Financial licensing act” means any of the financial licensing acts, as that term is defined in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(h) “Lender” means a person who, directly or indirectly, makes or offers to make secondary mortgage loans.

(i) “Licensee” means a person licensed or required to be licensed under this act.

(j) “Loan servicing customer” means a mortgagor whose secondary mortgage loan is being serviced by a servicer.

(k) “Open-end credit” means credit extended under a plan in which both of the following apply:

(i) The licensee or registrant reasonably contemplates repeated transactions.

(ii) The amount of credit that may be extended to the borrower during the term of the plan is generally made available to the extent that any part of the outstanding balance is repaid.

(l) “Originate” means any of the following:

(i) To negotiate, arrange, or offer to negotiate or arrange a secondary mortgage loan between a lender and 1 or more individuals.

(ii) To place, assist in placing, or find a secondary mortgage loan for 1 or more individuals.

(m) “Person” means an individual, corporation, limited liability company, partnership, association, or other legal entity.

(n) “Registrant” means a person that is registered or required to register as a broker, lender, or servicer under this act. The term does not include a secondary mortgage loan officer registrant or depository financial institution.

(o) “Secondary mortgage loan” means a loan that has a term of 90 days or more; that is made to a person for personal, family, or household purposes; and that is secured by a mortgage on an interest in real property that is used as a dwelling and is subject to a lien of 1 or more outstanding mortgages. A secondary mortgage loan may be secured by other collateral in addition to real property. Notwithstanding the place of execution, nominal or real, of a secondary mortgage loan, if the real property that secures the loan is located in this state, a secondary mortgage loan is subject to this act and all other applicable laws of this state.

(p) “Secondary mortgage loan officer” means an individual who is an employee or agent of a broker, lender, or servicer; who originates secondary mortgage loans; and who is not an employee of a depository financial institution or a subsidiary or affiliate of a depository financial institution.

(q) “Secondary mortgage loan officer registrant” means either of the following:

(i) An individual who is currently registered under section 2a or 2c.

(ii) An individual who is not required to register to perform services of a secondary mortgage loan officer under section 2a(9).

(r) “Service” means the collection or remittance for a lender, noteowner, or noteholder or a licensee’s own account of 4 or more installment payments of the principal of, interest of, or an amount placed in escrow under a secondary mortgage loan, mortgage servicing agreement, or an agreement with a mortgagor.

(s) “Servicer” means a person who, directly or indirectly, services or offers to service secondary mortgage loans.

493.52 Broker, lender, or servicer; license or registration required; exemption; use of name or assumed name.

Sec. 2. (1) A person shall not act as a broker, lender, or servicer without first obtaining a license under this act or registering under section 3a, unless 1 or more of the following apply:

(a) The person is providing secondary mortgage loan officer services as an employee or agent of only 1 broker, lender, or servicer and is registered as a secondary mortgage loan officer registrant if that registration is required under this act.

(b) The person is an exclusive broker. This subdivision does not apply after March 31, 2009.

(c) The person is licensed under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(d) The person acts as a lender but makes or negotiates 2 or fewer secondary mortgage loans in a calendar year.

(e) The person acts as a servicer but services 10 or fewer secondary mortgage loans in a calendar year.

(f) The person is an individual and an employee of a professional employer organization, as that term is defined in section 113 of the Michigan business tax act, 2007 PA 36, MCL 208.1113, solely acting as a secondary mortgage loan originator of only 1 broker or lender. The broker or lender shall do all of the following:

(i) Direct and control the activities of the individual under this act.

(ii) Be responsible for all activities of the individual and assume responsibility for the individual’s actions that are covered by the proof of financial responsibility deposit required under section 6.

(2) By October 31, 1997, a servicer that was exempt from regulation under this act shall either file with the commissioner an application for a license or registration under section 3 or discontinue all activities subject to this act.

(3) Except for a state or nationally chartered bank, savings bank, or an affiliate of a bank or savings bank, a person subject to this act shall not include in its name or assumed name the words “bank”, “banker”, “banc”, “bankcorp”, “bancorp”, or any other words or phrases that would imply that the person is a bank, is engaged in the business of banking, or is affiliated with a bank or savings bank. It is not a violation of this subsection for a licensee to use the term “mortgage banker” or “mortgage banking” in its name or assumed name.

(4) A person subject to this act whose name or assumed name on January 1, 1997 contained a word prohibited by subsection (3) may continue to use that name or assumed name.

493.52a Performance of services as secondary mortgage loan officer; requirements; criminal history check; registration; application; form; information to be provided; performance of services while application pending; issuance of registration; waiver of requirements; individual considered as secondary mortgage loan officer registrant.

Sec. 2a. (1) Beginning April 1, 2009, an employee or agent of a licensee or registrant, other than an individual described in subsection (9), shall not perform services of a secondary mortgage loan officer unless he or she registers or otherwise complies with this section.

(2) A licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, an individual, other than an individual described in subsection (9), as a secondary mortgage loan officer to originate secondary mortgage loans after March 31, 2009 shall conduct a criminal history check of that individual. All of the following apply to the criminal history check of an individual required under this subsection:

(a) The department of state police and the federal bureau of investigation shall perform the criminal history check required under this subsection.

(b) The individual who is the subject of the criminal history check shall have his or her fingerprints taken by a law enforcement agency or by another person that the commissioner determines is qualified to take fingerprints; pay the agency or person the fees required by the department of state police under section 3 of 1935 PA 120, MCL 28.273, and by the federal bureau of investigation, for processing fingerprints and completing a criminal history check; and request that the agency or person forward the fingerprints, a request for a criminal history check of the individual in the format and as prescribed by the department of state police, and the fees to the department of state police.

(c) The department of state police shall forward the fingerprints and appropriate fee to the federal bureau of investigation for a national criminal history check.

(d) After receiving a proper request and the required fees under this subsection, the department of state police shall conduct the criminal history check and provide the licensee or registrant with the results of the criminal history check. The results shall contain any criminal history record information concerning the individual maintained by the department of state police and the results of the federal bureau of investigation’s criminal history check.

(e) The licensee or registrant shall submit the results of the criminal history check described in subdivision (d) to the commissioner with the application for secondary mortgage loan officer registration described in subsection (4) or for purposes of subsection (5).

(f) The criminal history check required under this subsection may be conducted by the licensee or registrant, requested of and performed by the department of state police and the federal bureau of investigation, and submitted to the commissioner at any time on or after January 1, 2009.

(g) If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this subsection and stored by the department of state police in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the commissioner.

(3) Beginning April 1, 2009, if an individual, other than an individual described in subsection (9), is employed or engaged as an agent to originate secondary mortgage loans by a licensee or registrant, that individual shall apply for secondary mortgage loan officer registration under this section within 90 days after he or she begins providing services as an employee or agent of the licensee or registrant, by submitting the application described in subsection (4), in writing, and including with the application the annual operating fee established under section 6a(6).

(4) The commissioner shall prescribe the form of application for registration as a secondary mortgage loan officer. Subject to subsection (8), the application form shall require that an applicant provide at least all of the following to the commissioner:

(a) The name and home address of the applicant.

(b) A statement as to whether the applicant has ever been convicted of, or pled no contest to, any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(c) A statement as to whether the applicant has had an application denied, or a license, registration, or similar authority revoked or suspended, to practice any profession or occupation in any jurisdiction, including, but not limited to, licensure or registration as a broker, lender, or servicer in which the applicant held more than 25% of the ownership interest or as a secondary mortgage loan officer.

(d) Except for an application described in subsection (7), proof in the form of a certificate of completion or other evidence acceptable to the commissioner that the applicant has completed at least 24 hours of live professional classroom instruction in this state in an introductory course in residential mortgage lending that is sponsored or provided by a person, and taught by an instructor, approved by the commissioner. The 24 hours of instruction shall include at least 3 hours of live classroom instruction concerning state and federal laws and regulations governing residential mortgage lending, the content of which has been approved by the commissioner.

(e) Evidence acceptable to the commissioner that the applicant correctly answered at least 75% of the questions on an examination approved by the commissioner that tests an applicant's knowledge of the contents of the introductory course in residential mortgage lending described in subdivision (d).

(f) The results of the criminal history check described in subsection (2).

(g) The signature of the applicant and his or her declaration that the information and statements made in or included with the application are true, accurate, and complete.

(h) The signature of an executive officer on behalf of the licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, the applicant, and the executive officer's certification on behalf of the licensee or registrant that the information and statements in or included with the application are true, accurate, and complete to the best of his or her knowledge and belief.

(i) Any other information required by the commissioner.

(5) Beginning April 1, 2009, an applicant for secondary mortgage loan officer registration may perform services as a secondary mortgage loan officer while his or her application is pending if all of the following are met:

(a) The licensee or registrant that is the employer or principal of the applicant has completed the criminal history check of the applicant described in subsection (2) and submitted the results of that criminal history check to the commissioner.

(b) The criminal history check described in subdivision (a) does not disclose that the applicant has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(c) The licensee or registrant that is the employer or principal of the applicant has provided the commissioner with written notice that the applicant is beginning to provide services as a secondary mortgage loan officer for the licensee or registrant.

(6) The commissioner shall not issue a registration to any of the following:

(a) An applicant who has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(b) An applicant against whom the commissioner has issued a prohibition order under section 14a.

(c) An applicant for whom the commissioner has not received the results of the criminal history check described in subsection (2).

(d) An individual described in subsection (9).

(7) The commissioner must register a secondary mortgage loan officer who meets all of the following:

(a) For the 5-year period immediately preceding the effective date of the amendatory act that added this section, he or she was employed or engaged as a secondary mortgage loan officer for at least 4-1/2 years by 1 or more licensees, registrants, or persons exempt from this act under section 29 or 29a.

(b) He or she was not the subject of any prohibition orders issued by the commissioner under section 14a in the 5-year period immediately preceding the effective date of the amendatory act that added this section.

(c) Before April 1, 2009, he or she takes the examination described in subsection (4)(e) and correctly answers at least 75% of the questions on the examination.

(d) Before April 1, 2009, he or she submits an application under subsection (4). However, the applicant is not required to complete or submit proof of completion of the instruction described in subsection (4)(d).

(e) He or she is not an applicant described in subsection (6).

(8) The commissioner may waive any of the requirements of this section for secondary mortgage loan officer registration if the applicant has a valid, similar license or registration from another state that has a reciprocal agreement with the commissioner, except subsection (6)(a) and (c).

(9) Beginning April 1, 2009, an individual who meets all of the following may perform services of a secondary mortgage loan officer without registering under or otherwise complying with this section:

(a) Is an employee or agent of a broker, lender, or servicer that is also a mortgage broker, mortgage lender, or mortgage servicer under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(b) Is currently registered as a loan officer under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(10) An individual described in subsection (9) is considered a secondary mortgage loan officer registrant for purposes of this act.

493.52b Certain information available to the public; use of title or designation; receipt of remuneration or benefits; conditions; payment of remuneration or benefits prohibited.

Sec. 2b. (1) The commissioner may disclose, provide, or make available to the public the names, business addresses, and business telephone numbers of secondary mortgage loan officer registrants. The commissioner shall not disclose, provide, or make available to the public any other personal identifying information about secondary mortgage loan officer registrants or applicants for secondary mortgage loan officer registration.

(2) Beginning April 1, 2009, an individual employed or engaged as an agent by a licensee or registrant as a secondary mortgage loan officer shall not use the title or designation “loan officer”, “loan originator”, “mortgage loan officer”, “mortgage loan originator”, “secondary mortgage loan officer”, or “secondary mortgage loan originator” if he or she is not a secondary mortgage loan officer registrant. A secondary mortgage loan officer registrant and the employer or principal of a secondary mortgage loan officer registrant shall not use the word “registered”, “certified”, or any word of similar import in his or her title or designation to identify him or her as an individual who has met the registration requirements of this act unless use of that word is approved by the office of financial and insurance regulation.

(3) Beginning April 1, 2009, a secondary mortgage loan officer shall not directly or indirectly receive any compensation, commission, fee, points, or other remuneration or benefits for originating a secondary mortgage loan unless both of the following are met:

(a) The secondary mortgage loan officer is a secondary mortgage loan officer registrant or exempt under section 2a(9).

(b) The compensation, commission, fee, points, or other remuneration or benefits are paid by the licensee or registrant for which the secondary mortgage loan officer originated that secondary mortgage loan.

(4) Beginning April 1, 2009, a broker, lender, or servicer shall not directly or indirectly pay any compensation, commission, fee, points, or other remuneration or benefits to any of the following:

(a) A secondary mortgage loan officer who is not a secondary mortgage loan officer registrant.

(b) A secondary mortgage loan officer registrant who is not an employee or agent of that broker, lender, or servicer. As used in this subdivision, “employee” means that term as defined in section 3401 of the internal revenue code, 26 USC 3401.

493.52c Secondary mortgage loan officer registration; validity; duration; application for renewal; requirements.

Sec. 2c. (1) A secondary mortgage loan officer registration is valid for 1 calendar year and terminates on December 31 unless it is renewed on or before that date.

(2) Subject to subsection (6), to renew the secondary mortgage loan officer registrations of any employees or agents of a licensee or registrant, the licensee or registrant shall submit an application for renewal before December 1 of the year of the current secondary mortgage loan officer registrations. The licensee or registrant shall include with the application the annual operating fee established in section 6a(6) for each secondary mortgage loan officer registrant included in the application.

(3) The commissioner shall prescribe the form of the application for renewal of secondary mortgage loan officer registrations under subsection (2) and the process for submitting an application for renewal. The application form shall require that an applicant provide at least all of the following information about each secondary mortgage loan officer registrant included in the application for renewal:

(a) The name, address, and current license or registration number of the applicant.

(b) The name and home address of the secondary mortgage loan officer registrant.

(c) The current registration number of the secondary mortgage loan officer registrant.

(d) A statement as to whether the secondary mortgage loan officer registrant has had an application denied, or a license, registration, or similar authority revoked or suspended, to practice any profession or occupation in any jurisdiction, including, but not limited to, licensure or registration as a broker, lender, or servicer in which the secondary mortgage loan officer registrant held more than 25% of the ownership interest or as a secondary mortgage loan officer.

(e) Except as provided in subsection (7), proof acceptable to the commissioner that the secondary mortgage loan officer registrant has in the immediately preceding calendar year completed at least 6 hours of instruction in a course or courses relevant to the residential mortgage lending industry, the content of which has been approved by the commissioner. The 6 hours of instruction shall include at least 1.5 hours related to legal and regulatory compliance and at least 1 hour related to ethics and fraud prevention. All of the following apply to the course or courses described in this subdivision:

(i) A course may utilize a live instructor or be conducted by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network. However, a course conducted by electronic means must include a method of confirming a secondary mortgage loan officer registrant's completion of the course.

(ii) The course must be provided by a person approved by the commissioner.

(f) Any other information required by the commissioner.

(4) Before a licensee or registrant submits an application for renewal of a secondary mortgage loan officer registration for a secondary mortgage loan officer registrant under subsection (2), the secondary mortgage loan officer registrant shall provide an affidavit to the licensee or registrant that discloses any criminal conviction of or plea of no contest by the secondary mortgage loan officer registrant occurring between 1 of the following, as applicable, and the date of the affidavit:

(a) If the renewal application is for the secondary mortgage loan officer registrant's first renewal of his or her secondary mortgage loan officer registration, the date of the background records check provided at the time of his or her initial registration.

(b) If the renewal application is for the secondary mortgage loan officer registrant's second or subsequent renewal of his or her secondary mortgage loan officer registration, the date of the most recent affidavit provided by the secondary mortgage loan officer registrant to the licensee or registrant under this subsection.

(5) The commissioner shall not renew the secondary mortgage loan officer registration of any secondary mortgage loan officer who has ever been convicted of, or pled no contest to, any of the following:

(a) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(b) Within the 10-year period preceding the date of the application for renewal, a felony other than a felony described in subdivision (a).

(6) If an individual included in an application for renewal under subsection (2) is not currently registered and his or her secondary mortgage loan officer registration has not been renewed for a period of more than 5 consecutive calendar years, the individual must apply for a secondary mortgage loan officer registration under section 2b as a new applicant. The applicant may include in a renewal application under subsection (2) a request to renew the secondary mortgage loan officer registration for a secondary mortgage loan officer registrant who is not currently registered if his or her secondary mortgage loan officer registration has not been renewed for a period of fewer than 5 consecutive years.

(7) An applicant under subsection (2) for renewal of the secondary mortgage loan officer registration of a secondary mortgage loan officer registrant who has a valid, similar license or registration from another state that has instructional procedures and requirements for secondary mortgage loan officers approved by the commissioner may satisfy subsection (3)(e) by submitting proof that he or she is in compliance with the instructional requirements of that state at the time of application.

493.52d Conditions requiring notice.

Sec. 2d. (1) A secondary mortgage loan officer registrant shall provide written notice to the commissioner within 10 days after any of the following occur:

(a) His or her employment or agency relationship with a licensee or registrant is terminated.

(b) He or she begins employment or an agency relationship with a licensee or registrant.

(c) There is a change in the home address or any personal telephone number or personal electronic mail address he or she previously provided to the commissioner.

(d) He or she is convicted of or pleads guilty to any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(2) A licensee or registrant shall provide written notice to the commissioner within 20 days after hiring or engaging an individual as a secondary mortgage loan officer or terminating the employment of or agency relationship with a secondary mortgage loan officer.

493.56 License or registration; filing application or renewal; indemnification agreement; subsection (2) inapplicable after March 31, 2009; bond or letter of credit; claims filed against proof of financial responsibility; maintenance of net worth; determination; assets excluded from computation.

Sec. 6. (1) Except as otherwise provided in this section, at the time of filing an application for a license or registration or renewal of a license or registration, an applicant shall do all of the following:

(a) Provide proof of financial responsibility in the following amounts:

(i) \$25,000.00 for a license or registration to act as a broker who receives funds from a prospective borrower before the closing of the secondary mortgage loan or who acts as a lender.

(ii) \$125,000.00 for a license or registration to act as a servicer.

(iii) An additional \$20,000.00 is required from an applicant described in subparagraph (i) or (ii) for each exclusive broker through which that applicant conducts business regulated under this act. However, the aggregate of the additional amounts required from an applicant under this subdivision shall not exceed \$1,000,000.00. This subparagraph does not apply after March 31, 2009.

(b) Provide proof of financial responsibility by 1 of the following:

(i) A corporate surety bond payable to the commissioner that expires no earlier than the date the license or registration expires, executed by a corporate surety approved by the commissioner.

(ii) An irrevocable letter of credit upon which the applicant for a license or registration is the obligor that expires no earlier than the date the license or registration expires, that is issued by a depository financial institution, and the terms of which are approved by the commissioner.

(2) A licensee or registrant that conducts business regulated by this act through 1 or more exclusive brokers shall enter into an indemnification agreement, subject to the approval of the commissioner, to protect borrowers from monetary damages that may result from doing business with the exclusive brokers through which the licensee or registrant conducts business regulated by this act. The indemnification shall be provided in the amount and form required under subsection (1). This subsection does not apply after March 31, 2009.

(3) The bond or letter of credit required under subsection (1) shall be conditioned upon the licensee or registrant conducting its business as required under this act and all the rules promulgated under this act, and the payment of all money that becomes due to borrowers, secondary mortgage loan applicants, and the commissioner.

(4) The commissioner shall prioritize and pay claims against a proof of financial responsibility filed with the commissioner under this section in a manner that, in his or her discretion, best protects the public interest.

(5) Claims may only be filed against a proof of financial responsibility filed with the commissioner under this section by the commissioner and the licensee's or registrant's borrowers, secondary mortgage loan applicants, and loan servicing customers.

(6) Claims filed against a proof of financial responsibility filed with the commissioner under this section by a borrower or loan applicant shall involve only secondary mortgage loans or secondary mortgage loan applications secured or to be secured by real property used as a dwelling located in this state. The amount of the claim shall not exceed actual fees in connection with a loan application, overcharges of principal and interest, and excess escrow collections by the licensee or registrant.

(7) The commissioner may file a claim against a proof of financial responsibility filed with the commissioner under this section for payment of fines or fees due and payable to the commissioner and reimbursement of expenses incurred in investigating the licensee or registrant and expenses incurred in distributing proceeds of the proof of financial responsibility. A claim filed under this subsection shall be paid in full prior to payment of other claims against a proof of financial responsibility, unless the commissioner, in his or her discretion, waives in whole or in part the right to priority of payment.

(8) In the event that valid claims exceed the amount of a proof of financial responsibility filed with the commissioner under this section, each claimant shall be entitled only to a pro rata amount of his or her valid claim.

(9) A licensee that acts as a broker and that receives funds from a prospective borrower before the closing of the secondary mortgage loan shall maintain a net worth of not less

than \$25,000.00. A licensee that acts as a lender shall maintain a net worth of not less than \$25,000.00. A licensee that acts as a servicer shall maintain a net worth of not less than \$100,000.00.

(10) Net worth under subsection (9) is determined at the conclusion of the fiscal year of the licensee immediately preceding the date an application for a license, or renewal of a license, is submitted to the commissioner. An applicant shall disclose its net worth on a form prescribed by the commissioner or on a form prepared or reviewed by a certified public accountant and in accordance with generally accepted accounting principles. The following assets are excluded in the computation of net worth:

(a) That portion of an applicant's assets pledged to secure obligations of any person other than the applicant.

(b) An asset, except a construction loans receivable, secured by mortgages from related companies, due from officers or stockholders of the applicant or persons in which the applicant's officers or stockholders have an interest.

(c) An amount in excess of the lower of the cost or market value of mortgage loans in foreclosure, or real property acquired through foreclosure.

(d) An investment shown on the balance sheet in joint ventures, subsidiaries, or affiliates that is greater than the market value of the assets.

(e) Good will or value placed on insurance renewals or property management contract renewals or other similar intangible value.

(f) Organization costs.

493.56a Registration or license; expiration; renewal; filing financial statement; exemption; fees; failure to submit reports or fees; disposition of money received; "MBLSLA fund" defined; limitation on fees; annual report; additional reports; false statement as felony.

Sec. 6a. (1) A registration or license, unless it is renewed, expires on December 31 of each year. A person may renew a registration or license by filing an application for license or registration renewal and paying the annual operating fee for the succeeding year. The application and payment shall be received by the commissioner on or before a date prescribed by the commissioner.

(2) Not later than 90 days after close of the fiscal year of a licensee or registrant, the licensee or registrant shall annually deliver to the commissioner a financial statement for the fiscal year prepared from the licensee's or registrant's books and records. At the licensee's or registrant's option, the financial statement may be any of the following:

(a) On a form prescribed by the commissioner.

(b) A report substantially similar to the form prescribed by the commissioner, which the licensee or registrant represents to the commissioner to be true and complete.

(c) In a format prepared and certified by an independent certified public accountant licensed by a regulatory authority of any state or political subdivision of the United States.

(3) A registrant that is a licensee or registrant under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, and that timely files with the commissioner the financial statement required under section 7 of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1657, is exempt from the filing requirement of subsection (2).

(4) At the time of making an initial application for a license under this act, and at the time of making the first application for a license after the suspension or revocation of a license, an applicant for a license shall pay to the commissioner a fee for investigating the applicant for

a license and the annual operating fee established by the commissioner under subsection (5). To renew a license or registration that has not been suspended or revoked, the applicant shall only pay to the commissioner the annual operating fee.

(5) If an initial license or registration described in subsection (4) will have an effective date of July 1 or later, the initial annual operating fee for that license is 1/2 of the annual operating fee.

(6) The commissioner shall annually establish a schedule of fees that are sufficient to pay, but not to exceed, the reasonably anticipated costs of the office of financial and insurance regulation for administering and enforcing this act. The fee schedule shall include all of the following:

(a) For the investigation of an applicant for a license, a fee of not less than \$400.00 or more than \$1,000.00.

(b) Subject to subsection (5), an annual operating fee for each licensee or registrant, based upon the number of secondary mortgage loans the licensee or registrant brokered to other parties that were closed during the previous calendar year, the number of secondary mortgage loans closed by the licensee or registrant during the previous calendar year, and the dollar volume of secondary mortgage loans serviced by the licensee or registrant as of December 31 of the previous calendar year. The annual operating fee set by the commissioner under this subsection shall be based upon information in reports filed under subsection (13).

(c) For amending or reissuing a license, registration, or secondary mortgage loan officer registration, a fee of not less than \$15.00 or more than \$200.00.

(d) A licensee or registrant shall pay the actual travel, lodging, and meal expenses incurred by employees of the office of financial and insurance regulation who travel out of state to examine or investigate the records of the licensee or registrant and the cost of independent investigators employed under section 6b(3)(e).

(e) An annual fee from or on behalf of each secondary mortgage loan officer registrant in an amount established by the commissioner. For purposes of this subdivision, the commissioner shall establish an amount for the annual fee that is sufficient to defray the estimated cost of administering and enforcing the secondary mortgage loan officer registration provisions of this act. This subdivision does not apply to a secondary mortgage loan officer registrant described in section 2a(9).

(7) Fees received under this act are not refundable.

(8) If any fees or penalties provided for in this act are not paid when required, the attorney general may maintain an action against the delinquent licensee or registrant for the recovery of the fees and penalties together with interest and costs.

(9) A licensee or registrant that fails to submit to the commissioner the reports as required by subsections (2) and (13) is subject to a penalty of \$25.00 for each day a required report is delinquent or \$1,000.00, whichever is less.

(10) A license or registration renewal fee that is not received on or before December 31 is subject to a penalty of \$25.00 for each day the fee is delinquent or \$1,000.00, whichever is less.

(11) Money received from the fees described in this section shall be deposited in the MBLSLA fund. As used in this subsection, "MBLSLA fund" means the restricted account created under section 8(8) of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1658.

(12) The annual operating fees set by the commissioner shall not exceed the levels needed to cover the estimated cost of enforcement of this act.

(13) On or before a date to be determined by the commissioner, a licensee or registrant shall annually file with the commissioner a report giving information, as required by the commissioner, concerning the business and operations of the licensee or registrant under this act during the immediately preceding calendar year. In addition, the commissioner may require a licensee or registrant to file special reports as the commissioner considers reasonably necessary for the proper supervision of licensees or registrants under this act. Reports required under this section shall be in the form prescribed by the commissioner, signed, and affirmed. A person who willfully and knowingly subscribes and affirms a false statement in a report required under this subsection is guilty of a felony, punishable by imprisonment for not more than 15 years.

493.56b Powers of commissioner.

Sec. 6b. (1) The commissioner shall exercise general supervision and control over brokers, lenders, and servicers doing business in this state and secondary mortgage loan officers originating secondary mortgage loans in this state.

(2) In addition to the other powers granted by this act, the commissioner may do any of the following:

(a) Deny an application for a license, registration, or secondary mortgage loan officer registration.

(b) Conduct examinations and investigations of any person, as necessary to enforce this act and the rules promulgated under this act.

(c) Investigate complaints filed against licensees or registrants.

(d) Advise the attorney general or the prosecuting attorney of a county in which a broker, lender, or servicer is conducting business or in which a secondary mortgage loan officer resides that the commissioner believes a licensee, registrant, secondary mortgage loan officer, or other person is violating this act. The attorney general or prosecuting attorney shall bring a legal action to enjoin the operation of the business of the broker, lender, or servicer or the originating of secondary mortgages by the secondary mortgage loan officer or prosecute violations of this act.

(e) Bring an action in the Ingham county circuit court to enjoin a person from participating in, continuing to practice, or from engaging in a practice that is an unsafe or injurious practice or that violates this act or a rule promulgated under this act.

(f) Order a person to cease and desist from a violation of this act or a rule promulgated under this act under section 14.

(g) Suspend, revoke, or refuse to issue a license, registration, or secondary mortgage loan officer registration under section 11.

(h) Assess a civil fine under section 27.

(i) Appoint a conservator under section 12a.

(j) Issue an order to prohibit a person from being employed by, an agent of, or control person of, a licensee or registrant under section 14a.

(k) Censure a licensee, registrant, or secondary mortgage loan officer registrant.

(3) In the conduct of any examination or investigation under this act, the commissioner may do any of the following:

(a) Issue a subpoena under section 15.

(b) Administer oaths under section 15.

(c) Interrogate a person under oath concerning the business and conduct of affairs of a person subject to this act, and require the production of books, records, or papers relative to the inquiry.

(d) Have free access during regular business hours to the offices, places of business, or other location where the licensee, registrant, or an affiliate of a licensee or registrant, maintains business-related documents, and to the books, accounts, papers, records, files, documents, safes, and vaults of a licensee or registrant. The information obtained during the examination or investigation is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be available for public inspection or copying or divulged to any person except as follows:

(i) To the attorney general.

(ii) To a regulatory agency.

(iii) In connection with an enforcement action brought under this or another applicable act.

(iv) To law enforcement officials.

(v) To persons authorized by the Ingham county circuit court to receive the information.

(e) Employ independent investigators to conduct a part or all of an investigation, in the case of an investigation other than an examination.

493.61 Suspension, revocation, or refusal to renew license, registration, or secondary mortgage loan officer registration; notice; hearing; findings; facts or conditions; surrender of license or registration; pre-existing contract not affected; lost or destroyed license, registration, or secondary mortgage loan officer registration certificate.

Sec. 11. (1) A notice shall be given to a licensee, registrant, secondary mortgage loan officer registrant, or applicant of the commissioner's intention to enter an order to suspend or revoke a license, registration, or secondary mortgage loan officer registration or to refuse to issue a license, registration, or secondary mortgage loan officer registration. The notice shall be in writing and served personally or sent by certified mail to the licensee, registrant, secondary mortgage loan officer registrant, or applicant.

(2) A licensee, registrant, secondary mortgage loan officer registrant, or applicant may request a hearing to contest the intention to enter an order or refusal under subsection (1) within 20 days after service of the notice. If a hearing regarding suspension, revocation, or refusal to issue a license, registration, or secondary mortgage loan officer registration is not requested, the commissioner shall enter a final order regarding the suspension, revocation, or refusal to issue a license, registration, or secondary mortgage loan officer registration. The hearing shall be conducted in accordance with the provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The commissioner may suspend, revoke, or refuse to issue or renew a license, registration, or secondary mortgage loan officer registration if he or she finds that the licensee, registrant, or secondary mortgage loan officer registrant or an owner, director, officer, member, partner, stockholder, employee, or agent of a licensee, registrant, or secondary mortgage loan officer registrant has done any of the following:

(a) Made a material misstatement in an application.

(b) Engaged in fraud, deceit, or material misrepresentation in connection with any transaction subject to this act.

(c) Failed after 10 days' written notice of default, to pay an annual operating fee, to maintain in effect a bond as required by the commissioner, or to comply with a demand, ruling, or requirement of the commissioner lawfully made under this act.

(d) Either knowingly or without the exercise of due care to prevent it, violated this act or a rule promulgated under this act.

(3) The commissioner may suspend, revoke, or refuse to renew a license, registration, or secondary mortgage loan officer registration upon a finding of a fact or condition which,

if the fact or condition had existed at the time of the original application for the license, registration, or secondary mortgage loan officer registration, clearly would have warranted the commissioner to refuse to issue the license, registration, or secondary mortgage loan officer registration originally.

(4) A licensee, registrant, or secondary mortgage loan officer registrant may surrender a license, registration, or secondary mortgage loan officer registration by delivering to the commissioner the license, registration, or secondary mortgage loan officer registration with written notice that the licensee, registrant, or secondary mortgage loan officer registrant surrenders the license, registration, or secondary mortgage loan officer registration. The surrender, suspension, or revocation of a license, registration, or secondary mortgage loan officer registration under this act shall not affect the licensee's, registrant's, or secondary mortgage loan officer registrant's civil or criminal liability for acts committed in violation of this act. The surrender of a license, registration, or secondary mortgage loan officer registration does not affect a proceeding to suspend or revoke a license, registration, or secondary mortgage loan officer registration.

(5) Except as otherwise provided by law, a surrender, suspension, or revocation of a license, registration, or secondary mortgage loan officer registration does not impair or affect the obligation of a preexisting contract between the licensee, registrant, or secondary mortgage loan officer registrant and another person.

(6) A licensee, registrant, or secondary mortgage loan officer registrant whose license, registration, or secondary mortgage loan officer registration certificate has been destroyed or lost may comply with this section by submitting to the commissioner a notarized affidavit of the loss accompanied by written notice that the licensee, registrant, or secondary mortgage loan officer registrant surrenders the license, registration, or secondary mortgage loan officer registration.

493.63 Duration of license, registration, or secondary mortgage loan officer registration; reinstatement of suspended license or registration; issuing new license or registration; consent required for transfer or assignment; requirements for transfer.

Sec. 13. (1) A license, registration, or secondary mortgage loan officer registration remains in force until the date of expiration or until surrendered, revoked, or suspended under this act. The commissioner may reinstate a suspended license, registration, or secondary mortgage loan officer registration or issue a new license, registration, or secondary mortgage loan officer registration to a licensee, registrant, or secondary mortgage loan officer registrant whose license, registration, or secondary mortgage loan officer registration has been revoked if the conditions under which the license, registration, or secondary mortgage loan officer registration was revoked have been corrected and the commissioner is satisfied, as the result of an investigation, that the conditions are not likely to recur.

(2) A person shall not transfer or assign a license or registration without the consent of the commissioner. The sale, transfer, assignment, or conveyance of more than 25% of the outstanding voting stock of a licensee or registrant that is a corporation, or more than 25% of the interest in a licensee or registrant that is a limited liability company or partnership or other unincorporated legal entity is considered a transfer of a license or registration for purposes of this subsection.

493.70 Making or offering to make secondary mortgage loan; terms and conditions.

Sec. 20. A licensee, registrant, or secondary mortgage loan officer registrant shall not make or offer to make a secondary mortgage loan except on the terms and conditions authorized by this act and the rules promulgated under this act.

493.72 Charges and fees includable in principal; interest authorized by law; sale of insurance; hazard insurance; charges permitted by federal lending program.

Sec. 22. (1) A licensee or registrant shall not directly or indirectly assess any charges or fees in connection with making a secondary mortgage loan, except for any of the following, which may be included in the principal of the loan:

(a) Charges for credit life insurance or credit accident and health insurance as defined in section 3 of the credit insurance act, 1958 PA 173, MCL 550.603, or any other insurance under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, that is offered by the licensee or registrant and that the borrower has the option to purchase.

(b) If reasonable and necessary, the actual expenses incurred in connection with making, closing, disbursing, extending, readjusting, or renewing a secondary mortgage loan by any of the following, as applicable:

(i) The licensee.

(ii) The registrant.

(iii) An exclusive broker of the licensee or registrant. This subparagraph does not apply after March 31, 2009.

(c) A nonrefundable processing fee that is not more than 5% of the gross amount of the loan.

(d) Other charges authorized under the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(e) A reasonable annual fee for the privilege of receiving open-end credit from the licensee or registrant.

(2) The charges authorized under this section are in addition to interest authorized by law and are not a part of the interest collected or agreed to be paid on the secondary mortgage loan within the meaning of the law of this state that limits the rate of interest that may be exacted in a transaction. The charges shall be paid only once by the borrower to the licensee or registrant.

(3) Any insurance sold by a licensee or registrant in connection with a secondary mortgage loan must comply with the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or the credit insurance act, 1958 PA 173 MCL 500.601 to 500.624, as applicable.

(4) If a licensee or registrant requires a borrower to purchase hazard insurance, the licensee or registrant shall not require the borrower to purchase the insurance through a particular agency or agent or from a particular insurer.

(5) This section does not prohibit a licensee or registrant from imposing the charges that are permitted by any federal lending program designed to promote the making of secondary mortgage loans.

493.76a Secondary mortgage loan officer registrant; prohibited conduct.

Sec. 26a. A secondary mortgage loan officer registrant shall not do any of the following:

(a) Engage in fraud, deceit, or material misrepresentation in connection with any transaction governed by this act.

(b) Intentionally, or due to gross or wanton negligence, repeatedly fail to provide borrowers with any material disclosures of information required by law.

(c) Directly or indirectly make a false, misleading, or deceptive advertisement regarding secondary mortgage loans or the availability of secondary mortgage loans.

(d) Suppress or withhold from the commissioner any information that the secondary mortgage loan officer possesses and that, if submitted, would have made the secondary mortgage loan officer ineligible for registration or renewal of his or her secondary mortgage loan officer registration under this act at the time of application and would have allowed the commissioner to refuse to register the secondary mortgage loan officer.

(e) Be convicted of, or plead no contest to, any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(f) Refuse or fail to furnish any information or make any report required by the commissioner to issue or renew a secondary mortgage loan officer registration, or otherwise required by the commissioner, within a reasonable period of time, as determined by the commissioner, after requested by the commissioner.

493.77 Violation of act; making secondary mortgage loans without license as misdemeanor; penalty; civil fine; actions.

Sec. 27. (1) In addition to the penalties provided by this act, a violation of this act with respect to a particular secondary mortgage loan transaction is also subject to the penalty and remedy provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(2) A person, association, nonprofit corporation, common law trust, joint stock company, limited liability company, or any other group of individuals, however organized, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or representative thereof who or which willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00, imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a broker, lender, or servicer without a license or registration required under this act.

(b) Acts as a secondary mortgage loan officer in this state without a secondary mortgage loan officer registration required under this act.

(c) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a secondary mortgage loan, including, but not limited to, by doing any of the following:

(i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(3) A person who violates this act or directly or indirectly counsels, aids, or abets in a violation is liable, in addition to other penalties and forfeitures imposed by this act, for a civil fine of not more than \$3,000.00 for each violation, except that a person shall not be fined more than \$30,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation. The civil fine shall be sued for and recovered by the commissioner and shall be collected and enforced by summary proceedings by the attorney general.

(4) Whether or not he or she seeks damages or has an adequate remedy at law, a person, a county prosecutor, or the attorney general may bring an action to do any of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is a violation of this act.

(b) Enjoin a person from engaging in, or who is about to engage in, a method, act, or practice that violates this act.

(c) Recover actual damages resulting from a violation of this act or \$250.00, whichever is greater, together with reasonable attorneys' fees and the costs of bringing the action.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 1553.
- (b) Senate Bill No. 1554.
- (c) Senate Bill No. 1555.
- (d) House Bill No. 6562.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 1553 was filed with the Secretary of State December 18, 2008, and became 2008 PA 326, Imd. Eff. Dec. 18, 2008. Senate Bill No. 1554 was filed with the Secretary of State December 18, 2008, and became 2008 PA 327, Imd. Eff. Dec. 18, 2008. Senate Bill No. 1555 was filed with the Secretary of State December 18, 2008, and became 2008 PA 328, Imd. Eff. Dec. 18, 2008. House Bill No. 6562 was filed with the Secretary of State December 18, 2008, and became 2008 PA 324, Imd. Eff. Dec. 18, 2008.

[No. 326]

(SB 1553)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers and their loan officers; to prescribe the powers and duties of certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending section 8 (MCL 445.1658), as amended by 2008 PA 72.

The People of the State of Michigan enact:

445.1658 Payment of investigation and annual operating fees; establishment of annual fee schedule; limitation; fees nonrefundable; action for delinquent payment; licensee or registrant report; penalties; establishment and administration of MBLSLA fund; basis for setting operating fee.

Sec. 8. (1) At the time of making an initial application for a license under this act, and at the time of making the first application for a license after the suspension or revocation of a license, an applicant for licensure under this act shall pay to the commissioner a fee for investigating the applicant and the minimum annual operating fee established by the commissioner in subsection (3). To renew a license that is not suspended or revoked, the applicant shall only pay to the commissioner the annual operating fee established in subsection (3). At the time of filing a registration or a renewal of a registration, a registrant shall pay to the commissioner an annual operating fee established in subsection (3).

(2) If an initial or renewed license or registration described in subsection (1) will have an effective date within 6 months of the expiration date described in section 7, the initial or renewal annual operating fee for that license or registration is 1/2 of the annual operating fee.

(3) The commissioner shall annually establish a schedule of fees that are sufficient to pay, but not to exceed, the office of financial and insurance regulation's reasonably anticipated costs of administering and enforcing this act. Subject to subsection (2), the fees are as follows:

(a) For the investigation of an applicant for a license, a fee of not less than \$400.00 or more than \$1,000.00.

(b) Except as set forth in subdivision (c), a licensee or registrant annually shall pay an operating fee based upon the number of closed mortgage loans the licensee or registrant brokered to other parties, the number of mortgage loans closed by the licensee or registrant during the previous calendar year, and the dollar volume of loans serviced by the licensee or registrant as of December 31 of the previous calendar year. In the 1-year period beginning July 2, 1996, the operating fee shall be not less than \$250.00 and not more than \$2,500.00. Beginning July 2, 1997, in the discretion of the commissioner, subject to the limitation set forth in this subsection, the commissioner may increase the maximum operating fee at an annual rate of not more than 10% in the second, third, and fourth 1-year periods after the 1-year period beginning July 2, 1996, and in the fifth and subsequent years, at an annual rate of not more than the annual increase for the immediately preceding 12-month period in the Detroit consumer price index as reported by the United States department of labor. For purposes of this subdivision, "mortgage loan" includes only mortgage loans subject to this act.

(c) For amending or reissuing a license, registration, or loan officer registration, a fee of not less than \$15.00 or more than \$200.00.

(d) A licensee or registrant shall pay the actual travel, lodging, and meal expenses incurred by employees of the office of financial and insurance regulation who travel out of state to examine the records of the licensee or investigate the licensee or registrant and the cost of independent investigators employed under section 20(1)(e).

(e) An annual fee for each loan officer registrant in an amount established by the commissioner. For purposes of this subdivision, the commissioner shall establish an amount for the annual fee that is sufficient to defray the estimated cost of administering and enforcing the loan officer registration provisions of this act.

(4) Fees received under this act are not refundable.

(5) If any fees or penalties provided for in this act are not paid when required, the attorney general may maintain an action against the delinquent licensee or registrant for the recovery of the fees or penalties together with interest and costs.

(6) A licensee or registrant who fails to submit to the commissioner a report required under section 7 or section 21 is subject to a penalty of \$25.00 for each day the report is delinquent or \$1,000.00, whichever is less.

(7) A licensee or registrant whose license or registration renewal fee is not received on or before December 31 is subject to a penalty of \$25.00 for each day the fee is delinquent or \$1,000.00, whichever is less.

(8) The department of treasury shall establish and administer a restricted account in the general fund named the MBLSLA fund. The department of treasury shall credit to the account all fees collected under this act or under the commissioner's authority under this act, fees described in section 6a of the secondary mortgage loan act, 1981 PA 125, MCL 493.56a, and money appropriated or received from any source. The department of treasury shall use the money in the account only to provide money to the commissioner to administer and enforce this act and the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and to pay other costs associated with the commissioner's regulatory obligations. Money in

the account at the end of a state fiscal year shall not revert to the general fund but shall be carried over in the account to the next state fiscal year.

(9) The annual operating fee set by the commissioner under subsection (3)(b) shall be based upon information in reports filed under section 21.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 1552.
- (b) Senate Bill No. 1554.
- (c) Senate Bill No. 1555.
- (d) House Bill No. 6562.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 1552 was filed with the Secretary of State December 18, 2008, and became 2008 PA 325, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1554 was filed with the Secretary of State December 18, 2008, and became 2008 PA 327, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1555 was filed with the Secretary of State December 18, 2008, and became 2008 PA 328, Imd. Eff. Dec. 18, 2008.

House Bill No. 6562 was filed with the Secretary of State December 18, 2008, and became 2008 PA 324, Imd. Eff. Dec. 18, 2008.

[No. 327]

(SB 1554)

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers and their loan officers; to prescribe the powers and duties of certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 2a (MCL 445.1652a), as added by 2008 PA 60.

The People of the State of Michigan enact:

445.1652a Performance of services by employee or agent of licensee or registrant; criminal history check; application for loan officer registration; form; performance of services while application pending; issuance of registration prohibited; conditions; registration of loan officer; requirements; waiver; disclosure of information; use of certain titles or designations.

Sec. 2a. (1) Beginning April 1, 2009, an employee or agent of a licensee or registrant shall not perform services of a loan officer unless he or she registers or otherwise complies with this section.

(2) A licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, an individual as a loan officer to originate mortgage loans after March 31, 2009 shall conduct a criminal history check of that individual. All of the following apply to the criminal history check of an individual required under this subsection:

(a) The department of state police and the federal bureau of investigation shall perform the criminal history check required under this subsection.

(b) The individual who is the subject of the criminal history check shall have his or her fingerprints taken by a law enforcement agency or by another person that the commissioner determines is qualified to take fingerprints; pay the agency or person the fees required by the department of state police under section 3 of 1935 PA 120, MCL 28.273, and by the federal bureau of investigation, for processing fingerprints and completing a criminal history check; and request that the agency or person forward the fingerprints, a request for a criminal history check of the individual in the format and as prescribed by the department of state police, and the fees to the department of state police.

(c) The department of state police shall forward the fingerprints and appropriate fee to the federal bureau of investigation for a national criminal history check.

(d) After receiving a proper request and the required fees under this subsection, the department of state police shall conduct the criminal history check and provide the licensee or registrant with the results of the criminal history check. The results shall contain any criminal history record information concerning the individual maintained by the department of state police and the results of the federal bureau of investigation's criminal history check.

(e) The licensee or registrant shall submit the results of the criminal history check described in subdivision (d) to the commissioner with the application for loan officer registration described in subsection (4) or for purposes of subsection (5).

(f) A criminal history check required under this subsection may be conducted by the licensee or registrant, requested of and performed by the department of state police and the federal bureau of investigation, and submitted to the commissioner at any time on or after January 1, 2009.

(g) If a criminal arrest fingerprint card is subsequently submitted to the department of state police and matches against a fingerprint that was submitted under this subsection and stored by the department of state police in its automated fingerprint identification system (AFIS) database, the department of state police shall notify the commissioner.

(3) Beginning April 1, 2009, if an individual is employed or engaged as an agent to originate mortgage loans by a licensee or registrant, that individual shall apply for loan officer registration under this section within 90 days after he or she begins providing services as an employee or agent of the licensee or registrant, by submitting the application described in subsection (4), in writing, and including with the application the annual operating fee established under section 8(3).

(4) The commissioner shall prescribe the form of application for registration as a loan officer. Subject to subsection (8), the application form shall require that an applicant provide at least all of the following to the commissioner:

(a) The name and home address of the applicant.

(b) A statement as to whether the applicant has ever been convicted of, or pled no contest to, any of the following:

(i) A misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) A felony.

(c) A statement as to whether the applicant has had an application denied, or a license, registration, or similar authority revoked or suspended, to practice any profession or occupation in any jurisdiction, including, but not limited to, licensure or registration as a mortgage broker, mortgage lender, or mortgage servicer in which the applicant held more than 25% of the ownership interest or as a loan officer.

(d) Except for an application described in subsection (7), proof in the form of a certificate of completion or other evidence acceptable to the commissioner that the applicant has

completed at least 24 hours of live professional classroom instruction in this state in an introductory course in residential mortgage lending that is sponsored or provided by a person, and taught by an instructor, approved by the commissioner. The 24 hours of instruction shall include at least 3 hours of live classroom instruction concerning state and federal laws and regulations governing residential mortgage lending, the content of which has been approved by the commissioner.

(e) Evidence acceptable to the commissioner that the applicant correctly answered at least 75% of the questions on an examination approved by the commissioner that tests an applicant's knowledge of the contents of the introductory course in residential mortgage lending described in subdivision (d).

(f) The results of the criminal history check described in subsection (2).

(g) The signature of the applicant and his or her declaration that the information and statements made in or included with the application are true, accurate, and complete.

(h) The signature of an executive officer on behalf of the licensee or registrant that employs or offers to employ, or engages or offers to engage as an agent, the applicant, and the executive officer's certification on behalf of the licensee or registrant that the information and statements in or included with the application are true, accurate, and complete to the best of his or her knowledge and belief.

(i) Any other information required by the commissioner.

(5) Beginning April 1, 2009, an applicant for loan officer registration may perform services as a loan officer while his or her application is pending if all of the following are met:

(a) The licensee or registrant that is the employer or principal of the applicant has completed the criminal history check of the applicant described in subsection (2) and submitted the results of that criminal history check to the commissioner.

(b) The criminal history check described in subdivision (a) does not disclose that the applicant has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(c) The licensee or registrant that is the employer or principal of the applicant has provided the commissioner with written notice that the applicant is beginning to provide services as a loan officer for the licensee or registrant.

(6) The commissioner shall not issue a registration to any of the following:

(a) An applicant who has been convicted of, or pled no contest to, any of the following:

(i) A felony or misdemeanor involving embezzlement, forgery, fraud, a financial transaction, or securities.

(ii) Within the 10-year period preceding the date of the application, a felony other than a felony described in subparagraph (i).

(b) An applicant against whom the commissioner has issued a prohibition order under section 18a.

(c) An applicant for whom the commissioner has not received the results of the criminal history check described in subsection (2).

(7) The commissioner must register a loan officer who meets all of the following:

(a) For the 5-year period immediately preceding the effective date of the amendatory act that added this section, he or she was employed or engaged as a loan officer for at least 4-1/2 years by 1 or more licensees, registrants, or persons exempt from this act under section 25.

(b) He or she was not the subject of any prohibition orders issued by the commissioner under section 18a in the 5-year period immediately preceding the effective date of the amendatory act that added this section.

(c) Before April 1, 2009, he or she takes the examination described in subsection (4)(e) and correctly answers at least 75% of the questions on the examination.

(d) Before April 1, 2009, he or she submits an application under subsection (4). However, the applicant is not required to complete or submit proof of completion of the instruction described in subsection (4)(d).

(e) He or she is not an applicant described in subsection (6).

(8) The commissioner may waive any of the requirements of this section for loan officer registration if the applicant has a valid, similar license or registration from another state that has a reciprocal agreement with the commissioner, except subsection (6)(a) and (c).

(9) The commissioner may disclose, provide, or make available to the public the names, business addresses, and business telephone numbers of loan officer registrants. The commissioner shall not disclose, provide, or make available to the public any other personal identifying information about loan officer registrants or applicants for loan officer registration.

(10) Beginning April 1, 2009, an individual employed or engaged as an agent by a licensee or registrant as a loan officer shall not use the title or designation “loan officer”, “loan originator”, “mortgage loan officer”, or “mortgage loan originator” if he or she is not a loan officer registrant. A loan officer registrant and the employer or principal of a loan officer registrant shall not use the word “registered”, “certified”, or any word of similar import in his or her title or designation to identify him or her as an individual who has met the registration requirements of this act unless use of that word is approved by the office of financial and insurance services.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

- (a) Senate Bill No. 1552.
- (b) Senate Bill No. 1553.
- (c) Senate Bill No. 1555.
- (d) House Bill No. 6562.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

Senate Bill No. 1552 was filed with the Secretary of State December 18, 2008, and became 2008 PA 325, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1553 was filed with the Secretary of State December 18, 2008, and became 2008 PA 326, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1555 was filed with the Secretary of State December 18, 2008, and became 2008 PA 328, Imd. Eff. Dec. 18, 2008.

House Bill No. 6562 was filed with the Secretary of State December 18, 2008, and became 2008 PA 324, Imd. Eff. Dec. 18, 2008.

[No. 328]

(SB 1555)

AN ACT to amend 1987 PA 173, entitled “An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers and their loan officers; to prescribe the

powers and duties of certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties,” by amending section 2 (MCL 445.1652), as amended by 2008 PA 59.

The People of the State of Michigan enact:

445.1652 Mortgage broker, mortgage lender, or mortgage servicer; license or registration required; exemption; application; applicability of subsection (3) after March 31, 2009; “residential mortgage originator” defined; applicability of subsection (5) after March 31, 2009; compensation or other remuneration; words contained in name or assumed name; “employee” defined.

Sec. 2. (1) A person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license under this act or registering under section 6, unless 1 or more of the following apply:

(a) The person is providing loan officer services as an employee or agent of only 1 mortgage broker, mortgage lender, or mortgage servicer and is registered as a loan officer registrant if that registration is required under this act.

(b) The person is exempted from the act under section 25.

(c) The person is licensed as a class I licensee under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(d) The individual is an employee of a professional employer organization, as that term is defined in section 113 of the Michigan business tax act, 2007 PA 36, MCL 208.1113, solely acting as a residential mortgage originator of only 1 mortgage broker or mortgage lender. The mortgage broker or mortgage lender shall do all of the following:

(i) Direct and control the activities of the individual under this act.

(ii) Be responsible for all activities of the individual and assume responsibility for the individual's actions that are covered by the proof of financial responsibility deposit required under section 4.

(2) A person that is licensed to make regulatory loans under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, or is licensed to make secondary mortgage loans under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is registered with the commissioner shall file with the commissioner an application for a license under section 3(1) or shall discontinue all activities that are subject to this act.

(3) Unless a residential mortgage originator is otherwise licensed or registered under this act, a residential mortgage originator shall not receive directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits from a mortgage broker, mortgage lender, or mortgage servicer other than the employer of the residential mortgage originator. This subsection does not apply after March 31, 2009.

(4) Beginning April 1, 2009, a loan officer shall not directly or indirectly receive any compensation, commission, fee, points, or other remuneration or benefits for originating a mortgage loan unless both of the following are met:

(a) The loan officer is a loan officer registrant.

(b) The compensation, commission, fee, points, or other remuneration or benefits are paid by the licensee or registrant for which the loan officer originated that mortgage loan.

(5) Unless a residential mortgage originator is otherwise licensed or registered under this act, a mortgage broker, mortgage lender, or mortgage servicer shall not pay directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits to a residential mortgage originator other than an employee of the mortgage broker, mortgage

lender, or mortgage servicer. As used in this subsection and subsection (3), “residential mortgage originator” means a person who assists another person in obtaining a mortgage loan. This subsection does not apply after March 31, 2009.

(6) Beginning April 1, 2009, a mortgage broker, mortgage lender, or mortgage servicer shall not directly or indirectly pay any compensation, commission, fee, points, or other remuneration or benefits to any of the following:

(a) A loan officer who is not a loan officer registrant.

(b) A loan officer registrant who is not an employee or agent of that mortgage broker, mortgage lender, or mortgage servicer.

(7) A mortgage broker, mortgage lender, or mortgage servicer that is exempt from regulation under this act and is a subsidiary or affiliate of a depository financial institution or a depository financial institution holding company that does not maintain a main office or branch office in this state, shall register under section 6 or shall discontinue all activities subject to this act.

(8) Except for a state or nationally chartered bank, savings bank, or an affiliate of a bank or savings bank, the person subject to this act shall not include in its name or assumed name, the words “bank”, “banker”, “banking”, “banc”, “bankcorp”, “bancorp”, or any other words or phrases that would imply that the person is a bank, is engaged in the business of banking, or is affiliated with a bank or savings bank. It is not a violation of this subsection for a licensee or registrant to use the term “mortgage banker” or “mortgage banking” in its name or assumed name. A person subject to this act whose name or assumed name on January 1, 1995 contained a word prohibited by this section may continue to use the name or assumed name.

(9) As used in this section, “employee” means that term as defined in section 3401 of the internal revenue code, 26 USC 3401.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 94th Legislature are enacted into law:

(a) Senate Bill No. 1552.

(b) Senate Bill No. 1553.

(c) Senate Bill No. 1554.

(d) House Bill No. 6562.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

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Senate Bill No. 1553 was filed with the Secretary of State December 18, 2008, and became 2008 PA 326, Imd. Eff. Dec. 18, 2008.

Senate Bill No. 1554 was filed with the Secretary of State December 18, 2008, and became 2008 PA 327, Imd. Eff. Dec. 18, 2008.

House Bill No. 6562 was filed with the Secretary of State December 18, 2008, and became 2008 PA 324, Imd. Eff. Dec. 18, 2008.

[No. 329]

(HB 5746)

AN ACT to amend 1996 PA 376, entitled “An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to

stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials,” by amending section 8e (MCL 125.2688e), as added by 2008 PA 117.

The People of the State of Michigan enact:

125.2688e Designation of additional renaissance zones for renewable energy facilities.

Sec. 8e. (1) The board, upon recommendation of the board of the Michigan strategic fund defined in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, and upon recommendation of the commission of agriculture if the renewable energy facility uses agricultural crops or residues, or processed products from agricultural crops as its primary raw material source, may designate not more than 15 additional renaissance zones for renewable energy facilities within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone for a renewable energy facility within their boundaries. Not fewer than 5 of the renaissance zones for renewable energy facilities shall be designated for renewable energy facilities that focus primarily on the production of cellulosic biofuels.

(2) Each renaissance zone designated for a renewable energy facility under this section shall be 1 continuous distinct geographic area.

(3) The board may revoke the designation of all or a portion of a renaissance zone for a renewable energy facility if the board determines that the renewable energy facility does 1 or more of the following in a renaissance zone designated under this section:

(a) Fails to commence operation.

(b) Ceases operation.

(c) Fails to commence construction or renovation within 1 year from the date the renaissance zone for the renewable energy facility is designated.

(4) When designating a renaissance zone for a renewable energy facility, the board shall consider all of the following:

(a) The economic impact on local suppliers who supply raw materials, goods, and services to the renewable energy facility.

(b) The creation of jobs relative to the employment base of the community rather than the static number of jobs created.

(c) The viability of the project.

(d) The economic impact on the community in which the renewable energy facility is located.

(e) All other things being equal, giving preference to a business entity already located in this state.

(f) Whether the renewable energy facility can be located in an existing renaissance zone designated under section 8 or 8a.

(5) Beginning on July 7, 2006, the board shall require a development agreement between the Michigan strategic fund and the renewable energy facility.

(6) Until the maximum number of additional renaissance zones for renewable energy facilities described in subsection (1) is met, if the board designates a renaissance zone under

this section, section 8c, or section 8f for a facility that is a forest products processing facility or an agricultural processing facility and that also meets the definition of a renewable energy facility, then the board shall only designate that renaissance zone as a renaissance zone for a renewable energy facility under this section.

(7) As used in this section, “development agreement” means a written agreement between the Michigan strategic fund and the renewable energy facility that includes, but is not limited to, all of the following:

(a) A requirement that the renewable energy facility comply with all state and local laws.

(b) A requirement that the renewable energy facility report annually to the Michigan strategic fund on all of the following:

(i) The amount of capital investment made at the facility.

(ii) The number of individuals employed at the facility at the beginning and end of the reporting period as well as the number of individuals transferred to the facility from another facility owned by the renewable energy facility.

(iii) The percentage of raw materials purchased in this state.

(c) Any other conditions or requirements reasonably required by the Michigan strategic fund.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 330]

(HB 5745)

AN ACT to provide for the publication of certain information regarding the establishing of alternative fuels facilities in this state; to provide for certain powers and duties for certain state agencies; and to make available to the public certain information.

The People of the State of Michigan enact:

285.341 Definitions.

Sec. 1. As used in this act:

(a) “Alternative fuel” means a fuel composed of biomass or another fuel that does not have petroleum as a base or a blend of a nonpetroleum-based fuel and a petroleum-based fuel. Alternative fuel may include, but is not limited to, biodiesel and ethanol.

(b) “Biodiesel” means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and, in accordance with standards specified by the American society for testing and materials, designated B100, and meeting the requirements of D6751, as approved by the department.

(c) “Biomass fuel” means a fuel made from plant material, vegetation, or agricultural waste.

(d) “Department” means the Michigan department of agriculture.

(e) “Ethanol” means a substance that meets the American society for testing and materials standard in effect on the effective date of this act as the D4806 specification for denatured fuel grade ethanol for blending with gasoline.

285.342 Duties of department.

Sec. 2. (1) The department shall do the following:

(a) Review and study all information available within any agency or department of state government to determine the body of relevant information regarding the establishing in this state of a production facility for an alternative fuel.

(b) Compile, in written or electronic format, information in a concise and readable form regarding the procedures for preparing and executing applications and approvals necessary for the establishing of a production facility for alternative fuels.

(c) Publish and make available to the public, in written or electronic format, the information described in subdivision (b) in separate categories for biodiesel fuel, ethanol, and other categories of alternative fuels.

(2) As part of the function described in subsection (1), the department shall specifically indicate procedures and processes that are housed in the department of environmental quality, the department of labor and economic growth, and the Michigan economic development corporation.

(3) The department may identify mechanisms that promote effective communication and coordination of efforts between this state and local governments, private industry, and institutions of higher education concerning the investigation, research into, and promotion of alternative fuels.

(4) The department may also review any state regulation that may hinder the use, research, and development of alternative fuels and vehicles that are able to utilize them and recommend changes to the governor and to the legislature.

285.343 Assistance to department.

Sec. 3. Except as otherwise provided by law and so far as compatible with other duties, the department of environmental quality, the department of labor and economic growth, and the Michigan economic development corporation shall give the department any necessary assistance requested by the department for the fulfillment of its duties under this act.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 331]

(HB 5828)

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may

be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” (MCL 710.21 to 712A.32) by adding section 56a to chapter X; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER X

710.56a Entry of adoption order; adoptee deceased at time order is entered; requirements; reimbursement for medical expenses or medical assistance prohibited; repeal of section; condition.

Sec. 56a. (1) Beginning January 1, 2004, if an application for adoption has been filed under this chapter and all the requirements of subsection (2) for entering an order of adoption under this chapter have been met, the probate court may enter an order of adoption, even if the adoptee is deceased at the time the order of adoption is entered.

(2) The probate court may enter an order of adoption under subsection (1) by the foster parents of the deceased adoptee if all of the following requirements are met:

(a) The foster parent or parents were available for adoption.

(b) The parental rights of the adoptee’s parents were terminated and the child has been committed to the Michigan children’s institute by a court that has jurisdiction over the child.

(c) The foster parents desire to adopt the adoptee.

(d) The adoption procedures have been initiated under this chapter.

(e) The Michigan children’s institute supervisor would have granted consent to the adoption as required under section 43(1)(b) of this chapter after all the appropriate adoption procedures and requirements had been met.

(3) The department shall not reimburse the adoptive parent or parents for any medical expenses incurred for or on behalf of the deceased adoptee and shall not pay medical assistance to the adoptive parent or parents as described in the provisions of section 115h of the social welfare act, 1939 PA 280, MCL 400.115h.

(4) This section is repealed immediately after an order for adoption is issued under this section.

This act is ordered to take immediate effect.

Approved December 17, 2008.

Filed with Secretary of State December 18, 2008.

[No. 332]

(SB 1121)

AN ACT to amend 1933 PA 167, entitled “An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide

for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act,” by amending section 4a (MCL 205.54a), as amended by 2004 PA 173.

The People of the State of Michigan enact:

205.54a Sales exempted from tax; limitation.

Sec. 4a. (1) Subject to subsection (2), the following are exempt from the tax under this act:

(a) A sale of tangible personal property not for resale to a nonprofit school, nonprofit hospital, or nonprofit home for the care and maintenance of children or aged persons operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans’ organization, or a corporation incorporated under the laws of this state, if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or any restricted group. A sale of tangible personal property to a parent cooperative preschool is exempt from taxation under this act. As used in this subdivision, “parent cooperative preschool” means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool, that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(b) A sale of tangible personal property not for resale to a regularly organized church or house of religious worship, except the following:

(i) Sales in activities that are mainly commercial enterprises.

(ii) Sales of vehicles licensed for use on public highways other than a passenger van or bus with a manufacturer’s rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(c) The sale of food to bona fide enrolled students by a school or other educational institution not operated for profit.

(d) The sale of a vessel designated for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of the vessel engaged in interstate commerce.

(e) A sale of tangible personal property to persons engaged in a business enterprise and using or consuming the tangible personal property in the tilling, planting, caring for, or harvesting of the things of the soil; in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth; or in the direct gathering of fish, by net, line, or otherwise only by an owner-operator of the business enterprise, not including a charter fishing business enterprise. This exemption includes machinery that is capable of simultaneously harvesting grain or other crops and biomass residue from grain and other crops or machinery manufactured after the effective date of the amendatory act that added this sentence for the purpose of harvesting agricultural biomass grown solely as an energy crop. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land, and subsurface irrigation pipe, if the land tile or irrigation pipe is used in the production of agricultural products as a business enterprise. This