

# SENATE BILL No. 540

May 26, 2005, Introduced by Senators SANBORN, BISHOP, VAN WOERKOM, JACOBS and STAMAS and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1987 PA 173, entitled "Mortgage brokers, lenders, and servicers licensing act," by amending section 2 (MCL 445.1652), as amended by 2002 PA 4.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

5           (a) The person is solely performing services as an employee of  
6 only 1 mortgage broker, mortgage lender, or mortgage servicer.

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

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

Senate Bill No. 540 as amended June 29, 2005  
 1 487.2072.

2 <<(D) THE INDIVIDUAL IS AN EMPLOYEE OF A PROFESSIONAL EMPLOYER  
 3 ORGANIZATION, AS THAT TERM IS DEFINED IN SECTION 4 OF THE SINGLE BUSINESS  
 4 TAX ACT, 1975 PA 228, MCL 208.4, SOLELY ACTING AS A RESIDENTIAL MORTGAGE  
 5 ORIGINATOR OF ONLY 1 MORTGAGE BROKER OR MORTGAGE LENDER. THE MORTGAGE  
 6 BROKER OR MORTGAGE LENDER SHALL DO ALL OF THE FOLLOWING:

7 (i) DIRECT AND CONTROL THE ACTIVITIES OF THE INDIVIDUAL UNDER THIS  
 8 ACT.

9 (ii) BE RESPONSIBLE FOR ALL ACTIVITIES OF THE INDIVIDUAL AND ASSUME  
 10 RESPONSIBILITY FOR THE INDIVIDUAL'S ACTIONS THAT ARE COVERED BY THE PROOF  
 11 OF FINANCIAL RESPONSIBILITY DEPOSIT REQUIRED UNDER SECTION 4.>>

12 (2) A person that is licensed to make regulatory loans under  
 13 the regulatory loan act, ~~of 1963,~~ 1939 PA 21, MCL 493.1 to ~~493.25~~  
 14 493.24, or is licensed to make secondary mortgage loans under the  
 15 secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and  
 16 is registered with the commissioner shall file with the  
 17 commissioner an application for a license under section 3(1) or  
 18 shall discontinue all activities that are subject to this act.

19 (3) Unless a residential mortgage originator is otherwise  
 20 licensed or registered under this act, a residential mortgage  
 21 originator shall not receive directly or indirectly any  
 22 compensation, commission, fee, points, or other remuneration or  
 23 benefits from a mortgage broker, mortgage lender, or mortgage  
 24 servicer other than the employer of the residential mortgage  
 25 originator.

26 (4) Unless a residential mortgage originator is otherwise  
 27 licensed or registered under this act, a mortgage broker, mortgage  
 lender, or mortgage servicer shall not pay directly or indirectly

1 any compensation, commission, fee, points, or other remuneration or  
2 benefits to a residential mortgage originator other than an  
3 employee of the mortgage broker, mortgage lender, or mortgage  
4 servicer. As used in this subsection and subsection (3),  
5 "residential mortgage originator" means a person who assists  
6 another person in obtaining a mortgage loan.

7 (5) A mortgage broker, mortgage lender, or mortgage servicer  
8 that was exempt from regulation under this act and is a subsidiary  
9 or affiliate of a depository financial institution or a depository  
10 financial institution holding company that does not maintain a main  
11 office or branch office in this state, shall register under section  
12 6 or shall discontinue all activities subject to this act.

13 (6) Except for a state or nationally chartered bank, savings  
14 bank, or an affiliate of a bank or savings bank, the person subject  
15 to this act shall not include in its name or assumed name, the  
16 words "bank", "banker", "banking", "banc", "bankcorp", "bancorp",  
17 or any other words or phrases that would imply that the person is a  
18 bank, is engaged in the business of banking, or is affiliated with  
19 a bank or savings bank. It is not a violation of this subsection  
20 for a licensee or registrant to use the term "mortgage banker" or  
21 "mortgage banking" in its name or assumed name. A person subject to  
22 this act whose name or assumed name on January 1, 1995 contained a  
23 word prohibited by this section may continue to use the name or  
24 assumed name.