

# HOUSE BILL No. 4343

February 17, 2005, Introduced by Reps. Hunter, Tobocman, Gonzales, Cheeks, Farrah,  
McConico and Murphy and referred to the Committee on Banking and Financial Services.

A bill to amend 2002 PA 660, entitled  
"Consumer mortgage protection act,"  
by amending the title and sections 1, 2, 4, 5, 8, 9, 10, 12, and 15  
(MCL 445.1631, 445.1632, 445.1634, 445.1635, 445.1638, 445.1639,  
445.1640, 445.1642, and 445.1645); and to repeal acts and parts of  
acts.

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

TITLE

An act to prohibit certain lending practices; to require  
disclosure of certain information for home loans **AND HIGH-COST HOME**  
**LOANS**; to prescribe certain duties and obligations of the lender in  
a home loan **OR HIGH-COST HOME LOAN** transaction; ~~to prescribe the~~  
~~powers and duties of certain state agencies and officials;~~ and to

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1 prescribe penalties and provide for remedies.

2       Sec. 1. This act shall be known and may be cited as the  
3 ~~"consumer mortgage"~~ **"HOME LOAN** protection act".

4       Sec. 2. **(1)** As used in this act:

5       ~~—— (a) "Commissioner" means the commissioner of the office of  
6 financial and insurance services of the department of consumer and  
7 industry services.~~

8       ~~—— (b) "Depository institution" means a bank, savings and loan  
9 association, savings bank, or a credit union chartered under state  
10 or federal law.~~

11       ~~—— (c) "Home improvement installment contract" means an agreement  
12 of 1 or more documents covering the sale of goods or furnishing of  
13 services to a buyer for improvements to the buyer's principal  
14 dwelling located in this state used for occupancy of 4 or fewer  
15 families under which the buyer promises to pay in installments all  
16 or any part of the price of the goods or services.~~

17       ~~—— (d) "Mortgage loan" means a loan or home improvement  
18 installment contract secured by a first or subordinate mortgage or  
19 any other form of lien or a land contract covering real property  
20 located in this state used as the borrower's principal dwelling and  
21 designed for occupancy by 4 or fewer families. Mortgage loan does  
22 not include any of the following:~~

23       ~~—— (i) Loans in which the proceeds are used to acquire the  
24 dwelling.~~

25       ~~—— (ii) Reverse mortgage transactions.~~

26       ~~—— (iii) An open end credit plan being a loan in which the lender  
27 reasonably contemplates repeated advances.~~

1 ~~—— (c) "Person" means an individual, corporation, partnership,~~  
2 ~~association, governmental entity, or any other legal entity.~~

3 ~~—— (f) "Reverse mortgage" means a nonrecourse loan under which~~  
4 ~~both of the following apply:~~

5 ~~—— (i) A mortgage or other form of lien securing 1 or more~~  
6 ~~advances is created in the borrower's principal dwelling.~~

7 ~~—— (ii) The principal, interest, or shared appreciation or equity~~  
8 ~~is payable only after the borrower dies, the dwelling is~~  
9 ~~transferred, or the borrower ceases to occupy the dwelling as a~~  
10 ~~principal dwelling.~~

11 ~~—— (g) "Regulated lender" means a depository institution or a~~  
12 ~~licensee or a registrant under the consumer financial services act,~~  
13 ~~1988 PA 161, MCL 487.2051 to 487.2072, 1984 PA 379, MCL 493.101 to~~  
14 ~~493.114, the secondary mortgage loan act, 1981 PA 125, MCL 493.51~~  
15 ~~to 493.81, or the mortgage brokers, lenders, and servicers~~  
16 ~~licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, and a seller~~  
17 ~~under the home improvement finance act, 1965 PA 332, MCL 445.1101~~  
18 ~~to 445.1431.~~

19 ~~—— (h) "State and federal laws" means, individually and~~  
20 ~~collectively, 1 or more of the laws or regulations of this state or~~  
21 ~~the federal government which regulate or are applicable to a~~  
22 ~~mortgage loan or a person when brokering, making, servicing, or~~  
23 ~~collecting a mortgage loan, including, without limitation, the~~  
24 ~~federal truth in lending act, title I of the consumer credit~~  
25 ~~protection act, Public Law 90-321, 15 U.S.C. 1601 to 1608, 1610 to~~  
26 ~~1613, 1615, 1631 to 1635, 1637 to 1649, and 1661 to 1667f, real~~  
27 ~~estate settlement procedures act of 1974, Public Law 93-533, 88~~

1 ~~Stat. 1724, equal credit opportunity act, title VII of the consumer~~  
 2 ~~credit protection act, Public Law 90-321, 15 U.S.C. 1691 to 1691f,~~  
 3 ~~fair housing act, title VIII of the civil rights act of 1968,~~  
 4 ~~Public Law 90-284, 82 Stat. 81, fair credit report act, title VI of~~  
 5 ~~the consumer credit protection act, Public Law 90-321, 15 U.S.C.~~  
 6 ~~1681 to 1681v, the homeowners protection act of 1998, Public Law~~  
 7 ~~105-216, 112 Stat. 897, the fair debt collection practices act,~~  
 8 ~~title VIII of the consumer credit protection act, Public Law 90-~~  
 9 ~~321, 15 U.S.C. 1601nt and 1692 to 1692o, consumer financial~~  
 10 ~~services act, 1988 PA 161, MCL 487.2051 to 487.2072, mortgage~~  
 11 ~~brokers, lenders, and servicers licensing act, 1987 PA 173, MCL~~  
 12 ~~445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125,~~  
 13 ~~MCL 493.51 to 493.81, 1977 PA 135, MCL 445.1601 to 445.1614, and~~  
 14 ~~home improvement finance act, 1965 PA 332, MCL 445.1101 to~~  
 15 ~~445.1422.~~

16 (A) "AFFILIATE" MEANS A COMPANY THAT CONTROLS, IS CONTROLLED  
 17 BY, OR IS UNDER COMMON CONTROL WITH ANOTHER COMPANY.

18 (B) "ANNUAL PERCENTAGE RATE" MEANS AN ANNUAL PERCENTAGE RATE  
 19 FOR A LOAN DETERMINED UNDER 12 CFR PART 226.

20 (C) "BONA FIDE DISCOUNT POINTS" MEANS AN AMOUNT PAID BY A  
 21 BORROWER THAT MEETS ALL OF THE FOLLOWING:

22 (i) IT IS KNOWINGLY PAID BY THE BORROWER FOR THE EXPRESS  
 23 PURPOSE OF REDUCING THE INTEREST RATE APPLICABLE TO A HOME LOAN.

24 (ii) IT ACTUALLY REDUCES THE INTEREST RATE APPLICABLE TO THE  
 25 HOME LOAN.

26 (iii) IT IS PAID IN CONNECTION WITH A HOME LOAN FOR WHICH THE  
 27 UNDISCOUNTED INTEREST RATE DOES NOT EXCEED THE CONVENTIONAL

1 MORTGAGE RATE BY 2 OR MORE PERCENTAGE POINTS FOR A HOME LOAN  
2 SECURED BY A FIRST LIEN OR BY 3-1/2 OR MORE PERCENTAGE POINTS FOR A  
3 HOME LOAN SECURED BY A SUBORDINATED LIEN.

4 (D) "BORROWER" MEANS ANY NATURAL PERSON OBLIGATED TO REPAY A  
5 LOAN, INCLUDING A COBORROWER, COSIGNER, OR GUARANTOR.

6 (E) "COMPANY" MEANS A PERSON OTHER THAN A NATURAL PERSON.

7 (F) "CONVENTIONAL MORTGAGE RATE" MEANS THE MOST RECENTLY  
8 PUBLISHED ANNUAL YIELD ON CONVENTIONAL MORTGAGES PUBLISHED BY THE  
9 BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM IN STATISTICAL  
10 RELEASE H.15, OR ANY PUBLICATION THAT MAY SUPERSEDE IT, AS OF THE  
11 APPLICABLE TIME SET FORTH IN 12 CFR 226.32(A)(1)(i).

12 (G) "CONVENTIONAL PREPAYMENT PENALTY" MEANS A PREPAYMENT  
13 PENALTY OR FEE THAT IS COLLECTED OR CHARGED IN A HOME LOAN AND THAT  
14 IS AUTHORIZED BY LAW OTHER THAN THIS ACT, IF THE HOME LOAN DOES NOT  
15 HAVE AN ANNUAL PERCENTAGE RATE THAT EXCEEDS THE CONVENTIONAL  
16 MORTGAGE RATE BY MORE THAN 2 PERCENTAGE POINTS AND DOES NOT PERMIT  
17 ANY PREPAYMENT FEES OR PENALTIES THAT EXCEED 2% OF THE AMOUNT  
18 PREPAID.

19 (H) "CREDITOR" MEANS A LENDER, AS THAT TERM IS DEFINED IN 24  
20 CFR 3500.2, OR A MORTGAGE BROKER.

21 (I) "EXCLUDED POINTS AND FEES" MEANS, IN CONNECTION WITH A  
22 HOME LOAN, 1% OF THE TOTAL LOAN AMOUNT ATTRIBUTABLE TO BONA FIDE  
23 FEES PAID TO A FEDERAL OR STATE GOVERNMENT AGENCY THAT INSURES  
24 PAYMENT OF SOME PORTION OF A HOME LOAN, PLUS AN AMOUNT THAT DOES  
25 NOT EXCEED 2% OF THE LOAN AMOUNT ATTRIBUTABLE TO EITHER BONA FIDE  
26 DISCOUNT POINTS OR A CONVENTIONAL PREPAYMENT PENALTY, BUT NOT BOTH.

27 (J) "HIGH-COST HOME LOAN" MEANS A HOME LOAN IN WHICH THE TERMS

1 OF THE LOAN MEET OR EXCEED 1 OR MORE THRESHOLDS.

2 (K) "HOME LOAN" MEANS AN OPEN-END CREDIT PLAN OR EXTENSION OF  
3 CREDIT THAT MEETS ALL OF THE FOLLOWING:

4 (i) IT DOES NOT EXCEED THE MAXIMUM ORIGINAL PRINCIPAL  
5 OBLIGATION AS SET FORTH IN AND FROM TIME TO TIME ADJUSTED UNDER  
6 SECTION 305(A)(2) OF THE FEDERAL HOME LOAN MORTGAGE ACT, 12 USC  
7 1454(A)(2).

8 (ii) IT MEETS THE REQUIREMENTS FOR A FEDERALLY RELATED MORTGAGE  
9 LOAN UNDER 24 CFR 3500.2.

10 (iii) IT IS NOT A REVERSE MORTGAGE TRANSACTION OR A LOAN  
11 PRIMARILY FOR BUSINESS, AGRICULTURAL, OR COMMERCIAL PURPOSES.

12 (l) "MORTGAGE BROKER" MEANS THAT TERM AS DEFINED IN 24 CFR  
13 3500.2.

14 (M) SUBJECT TO SUBSECTION (2), "POINTS AND FEES" MEANS ALL OF  
15 THE FOLLOWING:

16 (i) ALL ITEMS INCLUDED IN THE DEFINITION OF FINANCE CHARGE IN  
17 12 CFR 226.4(A) AND 12 CFR 226.4(B), EXCEPT INTEREST OR THE TIME  
18 PRICE DIFFERENTIAL.

19 (ii) ALL ITEMS DESCRIBED IN 12 CFR 226.32(B)(1)(iii).

20 (iii) ALL COMPENSATION PAID DIRECTLY OR INDIRECTLY TO A MORTGAGE  
21 BROKER FROM ANY SOURCE, INCLUDING A MORTGAGE BROKER THAT ORIGINATES  
22 A LOAN IN ITS OWN NAME IN A TABLE-FUNDED TRANSACTION.

23 (iv) THE COST OF ALL PREMIUMS DIRECTLY OR INDIRECTLY FINANCED  
24 BY THE CREDITOR FOR ANY CREDIT LIFE, CREDIT DISABILITY, CREDIT  
25 UNEMPLOYMENT, OR CREDIT PROPERTY INSURANCE, OR ANY OTHER LIFE OR  
26 HEALTH INSURANCE, OR ANY PAYMENTS DIRECTLY OR INDIRECTLY FINANCED  
27 BY THE CREDITOR FOR ANY DEBT CANCELLATION OR SUSPENSION AGREEMENT

1 OR CONTRACT. HOWEVER, INSURANCE PREMIUMS PAID ON A MONTHLY BASIS OR  
2 DEBT CANCELLATION OR SUSPENSION FEES CALCULATED AND PAID ON A  
3 MONTHLY BASIS ARE NOT CONSIDERED FINANCED BY THE CREDITOR.

4 (v) THE MAXIMUM PREPAYMENT FEES AND PENALTIES THAT MAY BE  
5 CHARGED OR COLLECTED UNDER THE TERMS OF THE LOAN DOCUMENTS.

6 (vi) ALL PREPAYMENT FEES OR PENALTIES THAT ARE INCURRED BY THE  
7 BORROWER IF THE LOAN REFINANCES A PREVIOUS LOAN ORIGINATED OR  
8 CURRENTLY HELD BY THE SAME CREDITOR OR AN AFFILIATE OF THE  
9 CREDITOR.

10 (vii) FOR AN OPEN-END LOAN, POINTS AND FEES ARE CALCULATED BY  
11 ADDING THE TOTAL POINTS AND FEES KNOWN AT OR BEFORE CLOSING,  
12 INCLUDING THE MAXIMUM PREPAYMENT PENALTIES THAT MAY BE CHARGED OR  
13 COLLECTED UNDER THE TERMS OF THE LOAN DOCUMENTS, PLUS THE MINIMUM  
14 ADDITIONAL FEES THE BORROWER MUST PAY TO DRAW DOWN AN AMOUNT EQUAL  
15 TO THE TOTAL CREDIT LINE.

16 (N) "RATE THRESHOLD" MEANS AN ANNUAL PERCENTAGE RATE  
17 CALCULATED UNDER 12 CFR 226.32(A)(1)(i), WHETHER THE HOME LOAN IS A  
18 "RESIDENTIAL MORTGAGE TRANSACTION" OR AN EXTENSION OF "OPEN-END  
19 CREDIT" AS THOSE TERMS ARE DEFINED IN 12 CFR 226.2.

20 (O) "SERVICER" MEANS THAT TERM AS DEFINED IN 24 CFR 3500.2.

21 (P) "SERVICING" MEANS THAT TERM AS DEFINED IN 12 CFR 3500.2.  
22 THE TERM ALSO INCLUDES ANY OTHER ACTIVITIES OR RESPONSIBILITIES  
23 UNDERTAKEN IN CONNECTION WITH A HOME LOAN BY A PERSON WHO ACTS AS A  
24 SERVICER WITH RESPECT TO THAT HOME LOAN, INCLUDING, BUT NOT LIMITED  
25 TO, COLLECTION AND DEFAULT MANAGEMENT FUNCTIONS.

26 (Q) "THRESHOLD" MEANS A RATE THRESHOLD OR A TOTAL POINTS AND  
27 FEES THRESHOLD.

1 (R) "TOTAL LOAN AMOUNT" MEANS THE PRINCIPAL OF THE LOAN MINUS  
2 THOSE POINTS AND FEES THAT ARE INCLUDED IN THE PRINCIPAL AMOUNT OF  
3 THE LOAN. FOR AN OPEN-END LOAN, THE TOTAL LOAN AMOUNT IS CALCULATED  
4 USING THE TOTAL LINE OF CREDIT ALLOWED UNDER THE HOME LOAN AT  
5 CLOSING.

6 (S) "TOTAL POINTS AND FEES THRESHOLD" MEANS 1 OF THE  
7 FOLLOWING, AS APPLICABLE:

8 (i) FOR A HOME LOAN IN WHICH THE TOTAL LOAN AMOUNT IS  
9 \$20,000.00 OR MORE, THE TOTAL POINTS AND FEES PAYABLE IN CONNECTION  
10 WITH THE HOME LOAN EXCEED 4% OF THE TOTAL LOAN AMOUNT.

11 (ii) FOR A HOME LOAN IN WHICH THE TOTAL LOAN AMOUNT IS LESS  
12 THAN \$20,000.00, THE TOTAL POINTS AND FEES PAYABLE IN CONNECTION  
13 WITH THE HOME LOAN EXCEED \$800.00 OR 7% OF THE TOTAL LOAN AMOUNT,  
14 WHICHEVER IS LESS.

15 (T) "TRUTH IN LENDING ACT" MEANS THE FEDERAL TRUTH IN LENDING  
16 ACT, 15 USC 1601 TO 1667F.

17 (2) POINTS AND FEES DO NOT INCLUDE ANY OF THE FOLLOWING:

18 (A) TAXES, FILING FEES, RECORDING FEES, OR OTHER CHARGES OR  
19 FEES PAID TO OR REQUIRED BY A PUBLIC OFFICIAL FOR DETERMINING THE  
20 EXISTENCE OF OR FOR PERFECTING, RELEASING, OR SATISFYING A SECURITY  
21 INTEREST.

22 (B) BONA FIDE AND REASONABLE FEES PAID TO A PERSON OTHER THAN  
23 A CREDITOR OR AN AFFILIATE OF THE CREDITOR FOR ANY OF THE  
24 FOLLOWING:

25 (i) TAX PAYMENT SERVICES.

26 (ii) FLOOD CERTIFICATION.

27 (iii) PEST INFESTATION OR FLOOD DETERMINATION.



1 (iv) APPRAISAL.

2 (v) INSPECTIONS PERFORMED BEFORE THE CLOSING.

3 (vi) CREDIT REPORTS.

4 (vii) SURVEYS.

5 (viii) ATTORNEY FEES, IF THE BORROWER HAS THE RIGHT TO SELECT  
6 THE ATTORNEY FROM AN APPROVED LIST OR OTHERWISE.

7 (ix) NOTARY FEES.

8 (x) ESCROW CHARGES IN ADDITION TO ANY PAID UNDER SUBDIVISION  
9 (A).

10 (xi) TITLE INSURANCE PREMIUMS.

11 (xii) FIRE AND HAZARD INSURANCE AND FLOOD INSURANCE PREMIUMS,  
12 IF THE CONDITIONS IN 12 CFR 226.4(D)(2) ARE MET.

13 Sec. 4. ~~(1) A person offering to make or making a mortgage~~  
14 ~~loan shall not do either of the following:~~

15 ~~—— (a) Charge a fee for a product or service if the product or~~  
16 ~~service is not actually provided to the customer.~~

17 ~~—— (b) Misrepresent the amount charged by or paid to a third~~  
18 ~~party for a product or service.~~

19 ~~—— (2) A lender in making a mortgage loan shall not finance as~~  
20 ~~part of the loan single premium coverage for any credit life,~~  
21 ~~credit disability, or credit unemployment.~~

22 ~~—— (3) A person, appraiser, or real estate agent shall not make,~~  
23 ~~directly or indirectly, any false, deceptive, or misleading~~  
24 ~~statement or representation in connection with a mortgage loan~~  
25 ~~including, but not limited to, the borrower's ability to qualify~~  
26 ~~for a mortgage loan or the value of the dwelling that will secure~~  
27 ~~repayment of the mortgage loan.~~

1 ~~—— (4) A lender shall not insert or change information on an~~  
2 ~~application for a mortgage loan if the lender knows that the~~  
3 ~~information is false and misleading and intended to deceive a third~~  
4 ~~party that the borrower is qualified for the loan when in fact the~~  
5 ~~third party would not approve the loan without the insertion or~~  
6 ~~change.~~

7 ~~—— (5) A statement or representation is deceptive or misleading~~  
8 ~~if it has the capacity to deceive or mislead a borrower or~~  
9 ~~potential borrower. The commissioner shall consider any of the~~  
10 ~~following factors in deciding whether a statement or~~  
11 ~~misrepresentation is deceptive or misleading:~~

12 ~~—— (a) The overall impression that the statement or~~  
13 ~~representation reasonably creates.~~

14 ~~—— (b) The particular type of audience to which the statement is~~  
15 ~~directed.~~

16 ~~—— (c) Whether it may be reasonably comprehended by the segment~~  
17 ~~of the public to which the statement is directed.~~

18 ~~—— (6) A lender shall not condition the payment of an appraisal~~  
19 ~~upon a predetermined value or the closing of the mortgage loan~~  
20 ~~which is the basis of the appraisal.~~

21 ~~—— (7) A person shall not directly or indirectly compensate,~~  
22 ~~coerce, or intimidate an appraiser for the purpose of influencing~~  
23 ~~the independent judgment of the appraiser with respect to the value~~  
24 ~~of the dwelling offered as security for repayment of the mortgage~~  
25 ~~loan.~~

26 ~~—— (8) A mortgage loan note shall not contain blanks regarding~~  
27 ~~payments, interest rates, maturity date, or amount borrowed to be~~

1 ~~filled in after the note is signed by the borrower.~~

2 (1) A CREDITOR MAKING A HOME LOAN SHALL NOT DIRECTLY OR  
3 INDIRECTLY FINANCE ANY CREDIT LIFE, CREDIT DISABILITY, CREDIT  
4 UNEMPLOYMENT, OR CREDIT PROPERTY INSURANCE, ANY OTHER LIFE OR  
5 HEALTH INSURANCE, OR ANY PAYMENTS DIRECTLY OR INDIRECTLY FOR ANY  
6 DEBT CANCELLATION OR SUSPENSION AGREEMENT OR CONTRACT. HOWEVER,  
7 INSURANCE PREMIUMS OR DEBT CANCELLATION OR SUSPENSION FEES  
8 CALCULATED AND PAID ON A MONTHLY BASIS ARE NOT CONSIDERED FINANCED  
9 BY THE CREDITOR.

10 (2) A CREDITOR SHALL NOT ENGAGE IN FLIPPING A HOME LOAN. AS  
11 USED IN THIS SUBSECTION, "FLIPPING" MEANS MAKING A HOME LOAN TO A  
12 BORROWER THAT REFINANCES AN EXISTING HOME LOAN WHEN THE NEW LOAN  
13 DOES NOT HAVE REASONABLE, TANGIBLE NET BENEFIT TO THE BORROWER  
14 CONSIDERING ALL OF THE CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED  
15 TO, THE TERMS OF BOTH THE NEW AND REFINANCED LOANS, THE COST OF THE  
16 NEW LOAN, AND THE BORROWER'S CIRCUMSTANCES.

17 (3) A CREDITOR SHALL NOT RECOMMEND OR ENCOURAGE DEFAULT ON AN  
18 EXISTING LOAN OR OTHER DEBT PRIOR TO AND IN CONNECTION WITH THE  
19 CLOSING OR PLANNED CLOSING OF A HOME LOAN THAT REFINANCES ALL OR  
20 ANY PORTION OF THAT EXISTING LOAN OR DEBT.

21 (4) A CREDITOR OR SERVICER SHALL NOT DO ANY OF THE FOLLOWING:

22 (A) CHARGE A BORROWER A LATE PAYMENT FEE UNLESS THE LOAN  
23 DOCUMENTS SPECIFICALLY AUTHORIZE THE FEE, THE FEE IS NOT IMPOSED  
24 UNLESS THE PAYMENT IS PAST DUE FOR 10 DAYS OR MORE, AND THE FEE  
25 DOES NOT EXCEED 5% OF THE AMOUNT OF THE LATE PAYMENT.

26 (B) CHARGE MORE THAN 1 LATE PAYMENT FEE WITH RESPECT TO ANY  
27 SINGLE LATE PAYMENT.

1 (C) CHARGE A LATE PAYMENT FEE FOR A DEFAULT ON A LOAN PAYMENT  
2 IF THE DEFAULT IS THE RESULT OF THE CREDITOR OR SERVICER DEDUCTING  
3 A LATE PAYMENT FEE FROM A PREVIOUS PAYMENT MADE ON THE HOME LOAN.  
4 HOWEVER, A CREDITOR OR SERVICER MAY APPLY ANY PAYMENT MADE TO ANY  
5 UNPAID BALANCES OF PAYMENTS DUE IN THE ORDER OF MATURITY, EVEN IF  
6 THE RESULT IS A LATE PAYMENT CHARGE ACCRUING ON 1 OR MORE  
7 SUBSEQUENT UNPAID BALANCES.

8 (5) A HOME LOAN MAY NOT CONTAIN A PROVISION THAT PERMITS THE  
9 CREDITOR, IN ITS SOLE DISCRETION, TO ACCELERATE THE INDEBTEDNESS.  
10 THIS SUBSECTION DOES NOT PROHIBIT ACCELERATION OF THE LOAN IN GOOD  
11 FAITH DUE TO THE BORROWER'S FAILURE TO ABIDE BY THE MATERIAL TERMS  
12 OF THE LOAN.

13 (6) A LENDER SHALL NOT CHARGE A FEE FOR INFORMING OR  
14 TRANSMITTING TO ANY PERSON THE BALANCE DUE TO PAY OFF A HOME LOAN  
15 OR TO PROVIDE A RELEASE UPON PREPAYMENT. A LENDER SHALL PROVIDE A  
16 PAYOFF BALANCE WITHIN A REASONABLE TIME OR WITHIN 7 BUSINESS DAYS  
17 AFTER THE REQUEST, WHICHEVER IS EARLIER.

18 ~~Sec. 5. A mortgage loan with a term of less than 5 years~~  
19 ~~shall not have a payment schedule with regular periodic payments~~  
20 ~~that when aggregated do not fully amortize the outstanding~~  
21 ~~principal balance. This section does not apply to loans with~~  
22 ~~maturities of less than 1 year, if the purpose of the loan is a~~  
23 ~~"bridge" loan connected with the acquisition or construction of a~~  
24 ~~dwelling intended to become the borrower's principal dwelling. IN~~  
25 ~~ADDITION TO THE REQUIREMENTS OF THIS ACT, A HIGH-COST HOME LOAN IS~~  
26 ~~SUBJECT TO THE FOLLOWING ADDITIONAL LIMITATIONS AND PROHIBITED~~  
27 ~~PRACTICES:~~

1 (A) A CREDITOR OR ORIGINATOR SHALL NOT DIRECTLY OR INDIRECTLY  
2 FINANCE ANY POINTS OR FEES IN CONNECTION WITH A HIGH-COST HOME  
3 LOAN.

4 (B) A CREDITOR OR ORIGINATOR SHALL NOT INCLUDE IN THE LOAN  
5 DOCUMENTS FOR A HIGH-COST HOME LOAN OR CHARGE A BORROWER IN A HIGH-  
6 COST HOME LOAN ANY PREPAYMENT FEES OR PENALTIES.

7 (C) A HIGH-COST HOME LOAN SHALL NOT CONTAIN A SCHEDULED  
8 PAYMENT THAT IS MORE THAN TWICE AS LARGE AS THE AVERAGE OF EARLIER  
9 SCHEDULED PAYMENTS. THIS SUBDIVISION DOES NOT APPLY WHEN THE  
10 PAYMENT SCHEDULE IS ADJUSTED TO THE SEASONAL OR IRREGULAR INCOME OF  
11 THE BORROWER.

12 (D) A HIGH-COST HOME LOAN SHALL NOT INCLUDE PAYMENT TERMS  
13 UNDER WHICH THE OUTSTANDING PRINCIPAL BALANCE OR ACCRUED INTEREST  
14 WILL INCREASE AT ANY TIME OVER THE COURSE OF THE LOAN BECAUSE THE  
15 REGULARLY SCHEDULED PERIODIC PAYMENTS DO NOT COVER THE FULL AMOUNT  
16 OF INTEREST DUE.

17 (E) A HIGH-COST HOME LOAN SHALL NOT CONTAIN A PROVISION THAT  
18 INCREASES THE INTEREST RATE AFTER DEFAULT. THIS SUBDIVISION DOES  
19 NOT APPLY TO INTEREST RATE CHANGES IN A VARIABLE RATE LOAN  
20 OTHERWISE CONSISTENT WITH THE PROVISIONS OF THE LOAN DOCUMENTS, IF  
21 THE CHANGE IN THE INTEREST RATE IS NOT TRIGGERED BY THE EVENT OF  
22 DEFAULT OR THE ACCELERATION OF THE INDEBTEDNESS.

23 (F) A HIGH-COST HOME LOAN SHALL NOT INCLUDE TERMS UNDER WHICH  
24 MORE THAN 2 PERIODIC PAYMENTS REQUIRED UNDER THE LOAN ARE  
25 CONSOLIDATED AND PAID IN ADVANCE FROM THE LOAN PROCEEDS PROVIDED TO  
26 THE BORROWER.

27 (G) A CREDITOR SHALL NOT MAKE A HIGH-COST HOME LOAN WITHOUT

1 FIRST RECEIVING CERTIFICATION FROM A COUNSELOR FROM AN INDEPENDENT  
2 NONPROFIT ORGANIZATION APPROVED BY THE UNITED STATES DEPARTMENT OF  
3 HOUSING AND URBAN DEVELOPMENT, A STATE HOUSING FINANCING AGENCY, OR  
4 THE REGULATORY AGENCY THAT HAS JURISDICTION OVER THE CREDITOR, THAT  
5 THE BORROWER HAS RECEIVED COUNSELING ON THE ADVISABILITY OF THE  
6 LOAN TRANSACTION.

7 (H) A CREDITOR SHALL NOT EXTEND A HIGH-COST HOME LOAN TO A  
8 BORROWER RESIDING IN A HOME UNLESS A REASONABLE CREDITOR WOULD  
9 BELIEVE AT THE TIME THE LOAN IS CLOSED THAT THE BORROWER WILL BE  
10 ABLE TO MAKE THE SCHEDULED PAYMENTS ASSOCIATED WITH THE LOAN BASED  
11 UPON A CONSIDERATION OF HIS OR HER CURRENT AND EXPECTED INCOME,  
12 CURRENT OBLIGATIONS, EMPLOYMENT STATUS, AND OTHER FINANCIAL  
13 RESOURCES OTHER THAN THE BORROWER'S EQUITY IN THE COLLATERAL THAT  
14 SECURES REPAYMENT OF THE LOAN. THERE IS A REBUTTABLE PRESUMPTION  
15 THAT A BORROWER RESIDING IN A HOME IS ABLE TO MAKE THE SCHEDULED  
16 PAYMENTS ASSOCIATED WITH A HIGH-COST HOME LOAN IF AT THE TIME THE  
17 LOAN IS CONSUMMATED THE BORROWER'S TOTAL MONTHLY DEBTS, INCLUDING  
18 AMOUNTS UNDER THE LOAN, DO NOT EXCEED 50% OF THE BORROWER'S MONTHLY  
19 GROSS INCOME AS VERIFIED BY TAX RETURNS, PAYROLL RECEIPTS, AND  
20 OTHER INDEPENDENT INCOME VERIFICATION.

21 (I) A CREDITOR SHALL NOT PAY A CONTRACTOR UNDER A HOME-  
22 IMPROVEMENT CONTRACT FROM THE PROCEEDS OF A HIGH-COST HOME LOAN,  
23 UNLESS BOTH OF THE FOLLOWING ARE MET:

24 (i) THE CREDITOR IS PRESENTED WITH A SIGNED AND DATED  
25 COMPLETION CERTIFICATE SHOWING THAT THE HOME IMPROVEMENTS HAVE BEEN  
26 COMPLETED.

27 (ii) THE INSTRUMENT IS PAYABLE TO THE BORROWER OR JOINTLY TO

1 THE BORROWER AND THE CONTRACTOR OR, AT THE ELECTION OF THE  
2 BORROWER, THROUGH A THIRD-PARTY ESCROW AGENT IN ACCORDANCE WITH  
3 TERMS ESTABLISHED IN A WRITTEN AGREEMENT SIGNED BY THE BORROWER,  
4 THE CREDITOR, AND THE CONTRACTOR BEFORE THE DISBURSEMENT.

5 (J) A CREDITOR SHALL NOT CHARGE A BORROWER A FEE OR OTHER  
6 AMOUNT TO MODIFY, RENEW, EXTEND, OR AMEND A HIGH-COST HOME LOAN OR  
7 TO DEFER ANY PAYMENT DUE UNDER THE TERMS OF A HIGH-COST HOME LOAN.

8 (K) A HIGH-COST HOME LOAN DOCUMENT THAT CREATES A DEBT OR AN  
9 INTEREST IN PROPERTY TO SECURE A DEBT SHALL INCLUDE THE FOLLOWING  
10 NOTICE ON THE FACE OF THE DOCUMENT, PRINTED PROMINENTLY IN AT LEAST  
11 12-POINT BOLDFACED TYPE:

12 "NOTICE: THIS IS A HIGH-COST HOME LOAN SUBJECT TO SPECIAL  
13 RULES UNDER STATE LAW. A PURCHASER OR ASSIGNEE OF THIS HIGH-COST  
14 HOME LOAN MAY BE LIABLE FOR ALL CLAIMS AND DEFENSES OF THE BORROWER  
15 WITH RESPECT TO THE HOME LOAN."

16 ~~Sec. 8. The commissioner may conduct examinations and~~  
17 ~~investigations of a person over whom the commissioner has~~  
18 ~~regulatory authority as necessary to determine whether the person~~  
19 ~~is brokering, making, servicing, or collecting mortgage loans as~~  
20 ~~required by this act.~~

21 (1) IF A CREDITOR OR SERVICER ASSERTS THAT GROUNDS FOR  
22 ACCELERATION EXIST AND REQUIRES THE PAYMENT IN FULL OF ALL SUMS  
23 SECURED BY THE SECURITY INSTRUMENT, THE BORROWER, OR ANYONE  
24 AUTHORIZED TO ACT ON THE BORROWER'S BEHALF, HAS THE RIGHT AT ANY  
25 TIME UP TO THE TIME TITLE IS TRANSFERRED BY MEANS OF FORECLOSURE BY  
26 JUDICIAL PROCEEDING AND SALE OR OTHERWISE TO CURE THE DEFAULT, AND  
27 REINSTATE THE HOME LOAN BY TENDERING THE AMOUNT OR PERFORMANCE

1 SPECIFIED IN THIS SECTION. A CURE OF DEFAULT UNDER THIS SECTION  
2 REINSTATES THE BORROWER TO THE SAME POSITION AS IF THE DEFAULT HAD  
3 NOT OCCURRED AND NULLIFIES ANY ACCELERATION OF ANY OBLIGATION UNDER  
4 THE SECURITY INSTRUMENT OR NOTE ARISING FROM THE DEFAULT AS OF THE  
5 DATE OF THE CURE.

6 (2) BEFORE A FORECLOSURE OR OTHER LEGAL ACTION IS FILED TO  
7 FORECLOSE ON A LOAN SUBJECT TO THIS ACT, THE PERSON WHO INTENDS TO  
8 FILE THE ACTION SHALL DELIVER A NOTICE OF THE RIGHT TO CURE THE  
9 DEFAULT TO THE BORROWER INFORMING THE BORROWER OF ALL OF THE  
10 FOLLOWING:

11 (A) THE NATURE OF DEFAULT CLAIMED ON THE HOME LOAN, AND OF THE  
12 BORROWER'S RIGHT TO CURE THE DEFAULT BY PAYING THE SUM OF MONEY  
13 REQUIRED TO CURE THE DEFAULT. A CREDITOR OR SERVICER SHALL ACCEPT  
14 ANY PARTIAL PAYMENT MADE OR TENDERED IN RESPONSE TO THE NOTICE. IF  
15 THE AMOUNT NECESSARY TO CURE THE DEFAULT WILL CHANGE DURING THE 30-  
16 DAY PERIOD AFTER THE EFFECTIVE DATE OF THE NOTICE, DUE TO THE  
17 APPLICATION OF A DAILY INTEREST RATE OR THE ADDITION OF ANY LATE  
18 FEES ALLOWED UNDER THIS ACT, THE NOTICE SHALL GIVE SUFFICIENT  
19 INFORMATION TO ENABLE THE BORROWER TO CALCULATE THE AMOUNT AT ANY  
20 POINT DURING THE 30-DAY PERIOD.

21 (B) THE DATE BY WHICH THE BORROWER MUST CURE THE DEFAULT TO  
22 AVOID ACCELERATION AND INITIATION OF FORECLOSURE, OR OTHER ACTION  
23 TO SEIZE THE HOME, THAT IS 30 DAYS OR MORE AFTER THE DATE THE  
24 NOTICE IS EFFECTIVE, AND THE NAME, ADDRESS, AND TELEPHONE NUMBER OF  
25 A PERSON TO WHOM THE BORROWER MAY MAKE PAYMENT OR TENDER.

26 (C) THAT IF THE BORROWER DOES NOT CURE THE DEFAULT BY THE DATE  
27 SPECIFIED, THE CREDITOR MAY TAKE STEPS TO TERMINATE THE BORROWER'S



1 OWNERSHIP IN THE PROPERTY BY REQUIRING PAYMENT IN FULL OF THE HOME  
2 LOAN AND COMMENCING A FORECLOSURE PROCEEDING OR OTHER ACTION TO  
3 SEIZE THE HOME.

4 (D) THE NAME AND ADDRESS OF THE CREDITOR OR SERVICER AND THE  
5 TELEPHONE NUMBER OF A REPRESENTATIVE OF THE CREDITOR OR SERVICER  
6 WHOM THE BORROWER MAY CONTACT IF THE BORROWER DISAGREES WITH THE  
7 ASSERTION THAT A DEFAULT HAS OCCURRED OR THE CORRECTNESS OF THE  
8 CREDITOR'S CALCULATION OF THE AMOUNT REQUIRED TO CURE THE DEFAULT.

9 (3) TO CURE A DEFAULT DESCRIBED IN THIS SECTION, A BORROWER IS  
10 NOT REQUIRED TO PAY ANY CHARGE, FEE, OR PENALTY ATTRIBUTABLE TO THE  
11 EXERCISE OF THE RIGHT TO CURE A DEFAULT UNDER THIS SECTION, OTHER  
12 THAN THE FEES SPECIFICALLY ALLOWED BY THIS SECTION. THE BORROWER IS  
13 NOT LIABLE FOR ANY ATTORNEY FEES RELATING TO THE BORROWER'S DEFAULT  
14 THAT ARE INCURRED BY THE CREDITOR OR SERVICER BEFORE THE 30-DAY  
15 PERIOD IN SUBSECTION (2)(B). AFTER THE CREDITOR OR SERVICER FILES A  
16 FORECLOSURE ACTION OR TAKES OTHER ACTION TO SEIZE OR TRANSFER  
17 OWNERSHIP OF THE HOME, THE BORROWER IS ONLY LIABLE FOR ATTORNEY  
18 FEES THAT ARE REASONABLE AND ACTUALLY INCURRED BY THE CREDITOR OR  
19 SERVICER, BASED ON A REASONABLE HOURLY RATE AND A REASONABLE NUMBER  
20 OF HOURS.

21 (4) IF A DEFAULT IS CURED AFTER THE INITIATION OF ANY ACTION  
22 TO FORECLOSE, THE CREDITOR SHALL TAKE THE STEPS NECESSARY TO  
23 TERMINATE THE FORECLOSURE PROCEEDING OR OTHER ACTION.

24 ~~Sec. 9. If the commissioner determines that a person is~~  
25 ~~brokering, making, servicing, or collecting mortgage loans in~~  
26 ~~violation of this act, the commissioner shall do 1 or more of the~~  
27 ~~following:~~

1 ~~—— (a) Initiate a cause of action under section 10.~~

2 ~~—— (b) If the person is chartered, licensed, registered,~~  
3 ~~regulated, or administered by the commissioner under a law of this~~  
4 ~~state, the commissioner shall enforce the penalties and remedies~~  
5 ~~under that law.~~

6 ~~—— (c) Forward a complaint to the appropriate regulatory or~~  
7 ~~investigatory authority.~~

8 (1) A PERSON WHO PURCHASES OR IS OTHERWISE ASSIGNED A HIGH-  
9 COST HOME LOAN IS SUBJECT TO ANY CLAIMS AND DEFENSES WITH RESPECT  
10 TO THE LOAN THAT THE BORROWER COULD ASSERT AGAINST A CREDITOR OR  
11 MORTGAGE BROKER OF THE LOAN, UNLESS THE PURCHASER OR ASSIGNEE  
12 DEMONSTRATES BY A PREPONDERANCE OF THE EVIDENCE THAT ALL OF THE  
13 FOLLOWING ARE MET:

14 (A) THE PURCHASER OR ASSIGNEE HAS IN PLACE AT THE TIME OF THE  
15 PURCHASE OR ASSIGNMENT OF THE LOAN A POLICY THAT EXPRESSLY  
16 PROHIBITS ITS PURCHASE OR ACCEPTANCE OF ASSIGNMENT OF ANY HIGH-COST  
17 HOME LOANS.

18 (B) THE PURCHASER OR ASSIGNEE REQUIRES BY CONTRACT THAT A  
19 SELLER OR ASSIGNOR OF HOME LOANS TO THE PURCHASER OR ASSIGNEE  
20 REPRESENTS AND WARRANTS TO THE PURCHASER OR ASSIGNEE THAT EITHER  
21 THE SELLER OR ASSIGNOR WILL NOT SELL OR ASSIGN ANY HIGH-COST HOME  
22 LOANS TO THE PURCHASER OR ASSIGNEE, OR THAT THE SELLER OR ASSIGNOR  
23 IS A BENEFICIARY OF A REPRESENTATION AND WARRANTY FROM A PREVIOUS  
24 SELLER OR ASSIGNOR TO THAT EFFECT.

25 (C) THE PURCHASER OR ASSIGNEE EXERCISES REASONABLE DUE  
26 DILIGENCE AT THE TIME OF PURCHASE OR ASSIGNMENT OF ANY HOME LOANS,  
27 OR WITHIN A REASONABLE PERIOD OF TIME AFTER THE PURCHASE OR

1 ASSIGNMENT OF ANY HOME LOANS, INTENDED BY THE PURCHASER OR ASSIGNEE  
2 TO PREVENT THE PURCHASER OR ASSIGNEE FROM PURCHASING OR TAKING  
3 ASSIGNMENT OF ANY HIGH-COST HOME LOANS. AS USED IN THIS  
4 SUBDIVISION, "REASONABLE DUE DILIGENCE" INCLUDES SAMPLING AND DOES  
5 NOT INCLUDE LOAN-BY-LOAN REVIEW.

6 (2) LIMITED TO AMOUNTS REQUIRED TO REDUCE OR EXTINGUISH THE  
7 BORROWER'S LIABILITY UNDER THE HIGH-COST HOME LOAN PLUS AMOUNTS  
8 REQUIRED TO RECOVER COSTS, INCLUDING REASONABLE ATTORNEY FEES, A  
9 BORROWER ACTING ONLY IN AN INDIVIDUAL CAPACITY MAY ASSERT CLAIMS  
10 THAT THE BORROWER COULD ASSERT AGAINST A CREDITOR OF THE HIGH-COST  
11 HOME LOAN AGAINST ANY SUBSEQUENT HOLDER OR ASSIGNEE OF THE HIGH-  
12 COST HOME LOAN UNDER EITHER OR BOTH OF THE FOLLOWING, AS  
13 APPLICABLE:

14 (A) WITHIN 5 YEARS OF THE CLOSING OF A HIGH-COST HOME LOAN, A  
15 VIOLATION OF THIS ACT IN CONNECTION WITH THE LOAN AS AN ORIGINAL  
16 ACTION.

17 (B) AT ANY TIME DURING THE TERM OF A HIGH-COST HOME LOAN,  
18 AFTER AN ACTION TO COLLECT ON THE HOME LOAN OR FORECLOSE ON THE  
19 COLLATERAL SECURING THE HOME LOAN HAS BEEN INITIATED OR THE DEBT  
20 ARISING FROM THE HOME LOAN HAS BEEN ACCELERATED OR THE HOME LOAN  
21 HAS BECOME 60 DAYS IN DEFAULT, ANY DEFENSE, CLAIM, OR COUNTERCLAIM  
22 OR ACTION TO ENJOIN FORECLOSURE OR PRESERVE OR OBTAIN POSSESSION OF  
23 THE HOME THAT SECURES THE LOAN.

24 (3) THE PROVISIONS OF THIS SECTION SHALL BE EFFECTIVE  
25 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, PROVIDED THAT NOTHING  
26 IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE SUBSTANTIVE RIGHTS,  
27 REMEDIES, OR PROCEDURAL RIGHTS AVAILABLE TO A BORROWER AGAINST ANY

1 CREDITOR, ASSIGNEE, OR HOLDER UNDER ANY OTHER LAW. THE RIGHTS  
 2 CONFERRED ON BORROWERS BY SUBSECTIONS (1) AND (2) ARE INDEPENDENT  
 3 OF EACH OTHER AND DO NOT LIMIT EACH OTHER.

4 Sec. 10. ~~The attorney general or the prosecuting attorney for~~  
 5 ~~the county where an alleged violation occurred may bring an action~~  
 6 ~~against a person to do 1 or more of the following:~~

7 ~~—— (a) Obtain a declaratory judgment that a method, act, or~~  
 8 ~~practice of the person is a violation of this act.~~

9 ~~—— (b) Enjoin a person who is engaging or about to engage in a~~  
 10 ~~method, act, or practice that is a violation of this act.~~

11 ~~—— (c) Obtain a civil fine of not more than \$10,000.00 for the~~  
 12 ~~first offense and not more than \$20,000.00 for the second and any~~  
 13 ~~subsequent offense.~~

14 (1) A VIOLATION OF THIS ACT IS AN UNFAIR AND DECEPTIVE TRADE  
 15 PRACTICE AND A VIOLATION OF SECTION 3 OF THE MICHIGAN CONSUMER  
 16 PROTECTION ACT, 2002 PA 613, MCL 445.903. HOWEVER, A BORROWER MAY  
 17 NOT RECOVER DAMAGES UNDER BOTH THAT ACT AND SUBSECTION (2).

18 (2) IF A PERSON IS FOUND IN A CIVIL ACTION TO HAVE VIOLATED  
 19 THIS ACT, THE COURT MAY AWARD THE BORROWER ALL OF THE FOLLOWING:

20 (A) ACTUAL DAMAGES, INCLUDING CONSEQUENTIAL AND INCIDENTAL  
 21 DAMAGES. A BORROWER IS NOT REQUIRED TO DEMONSTRATE RELIANCE IN  
 22 ORDER TO RECEIVE ACTUAL DAMAGES.

23 (B) STATUTORY DAMAGES EQUAL TO 1 OF THE FOLLOWING:

24 (i) IF THE VIOLATION IS COMMITTED BY A MORTGAGE BROKER OR  
 25 ORIGINATOR, 2 TIMES THE FINANCE CHARGE PAID BY THE BORROWER UNDER  
 26 THE LOAN AND FORFEITURE OF THE REMAINING INTEREST UNDER THE LOAN.

27 (ii) IF THE VIOLATION IS COMMITTED BY A MORTGAGE SERVICER,

1 \$5,000.00 PER VIOLATION.

2 (C) IF THE VIOLATION WAS MALICIOUS OR RECKLESS, PUNITIVE  
3 DAMAGES.

4 (D) COSTS AND REASONABLE ATTORNEY FEES.

5 (3) A COURT MAY GRANT A BORROWER INJUNCTIVE, DECLARATORY, AND  
6 ANY OTHER EQUITABLE RELIEF THE COURT FINDS APPROPRIATE IN AN ACTION  
7 TO ENFORCE COMPLIANCE WITH THIS ACT.

8 (4) THE RIGHT OF RESCISSION GRANTED UNDER THE TRUTH IN LENDING  
9 ACT, 15 USC 1601 TO 1667F, FOR A VIOLATION OF THAT LAW AND ALL  
10 OTHER REMEDIES PROVIDED UNDER THIS ACT ARE AVAILABLE TO A BORROWER  
11 BY WAY OF RECOUPMENT AGAINST A PARTY FORECLOSING ON THE HOME LOAN  
12 OR COLLECTING ON THE LOAN, AT ANY TIME DURING THE TERM OF THE LOAN.  
13 A RECOUPMENT CLAIM ASSERTED BY A BORROWER UNDER THIS SUBSECTION IS  
14 LIMITED TO AN AMOUNT THAT REDUCES OR EXTINGUISHES THE BORROWER'S  
15 LIABILITY UNDER THE HOME LOAN, PLUS COSTS AND REASONABLE ATTORNEY  
16 FEES. THIS SUBSECTION DOES NOT LIMIT ANY RECOUPMENT RIGHT AVAILABLE  
17 TO A BORROWER UNDER ANY OTHER LAW.

18 (5) A PERSON, INCLUDING A MEMBER, OFFICER, OR DIRECTOR OF A  
19 CREDITOR, WHO KNOWINGLY VIOLATES THIS ACT OR AN ORDER OR RULE MADE  
20 OR PROMULGATED UNDER THIS ACT IS GUILTY OF A MISDEMEANOR PUNISHABLE  
21 BY 1 OF THE FOLLOWING:

22 (A) FOR A FIRST VIOLATION, IMPRISONMENT FOR NOT MORE THAN 180  
23 DAYS, A FINE OF NOT MORE THAN \$5,000.00, OR COMMUNITY SERVICE OF  
24 NOT MORE THAN 500 HOURS, OR A COMBINATION OF THESE PENALTIES.

25 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, IMPRISONMENT FOR NOT  
26 MORE THAN 1 YEAR, A FINE OF NOT MORE THAN \$10,000.00, OR COMMUNITY  
27 SERVICE OF NOT MORE THAN 1,000 HOURS, OR A COMBINATION OF THESE

1 PENALTIES.

2 (6) A CREDITOR IN A HOME LOAN WHO, WHEN ACTING IN GOOD FAITH,  
3 FAILS TO COMPLY WITH THE PROVISIONS OF THIS ACT, IS NOT IN  
4 VIOLATION OF THIS SECTION IF THE CREDITOR ESTABLISHES EITHER OF THE  
5 FOLLOWING:

6 (A) WITHIN 30 DAYS OF THE LOAN CLOSING, AND BEFORE RECEIVING  
7 ANY NOTICE OF THE COMPLIANCE FAILURE, THE CREDITOR MADE APPROPRIATE  
8 RESTITUTION TO THE BORROWER AND APPROPRIATE ADJUSTMENTS TO THE  
9 LOAN.

10 (B) WITHIN 60 DAYS OF THE LOAN CLOSING AND BEFORE RECEIVING  
11 ANY NOTICE OF THE COMPLIANCE FAILURE, AND THE COMPLIANCE FAILURE  
12 WAS NOT INTENTIONAL AND RESULTED FROM A BONA FIDE ERROR  
13 NOTWITHSTANDING THE MAINTENANCE OF PROCEDURES REASONABLY ADAPTED TO  
14 AVOID THOSE ERRORS, THE BORROWER IS NOTIFIED OF THE COMPLIANCE  
15 FAILURE, APPROPRIATE RESTITUTION IS MADE TO THE BORROWER, AND  
16 APPROPRIATE ADJUSTMENTS ARE MADE TO THE LOAN. AS USED IN THIS  
17 SUBSECTION, A "BONA FIDE ERROR" INCLUDES, BUT IS NOT LIMITED TO, A  
18 COMPUTER MALFUNCTION OR A CLERICAL, CALCULATION, COMPUTER  
19 PROGRAMMING, OR PRINTING ERROR. AN ERROR OF LEGAL JUDGMENT WITH  
20 RESPECT TO A PERSON'S OBLIGATIONS UNDER THIS SECTION IS NOT A BONA  
21 FIDE ERROR.

22 (7) THE REMEDIES PROVIDED IN THIS SECTION ARE CUMULATIVE AND  
23 ARE NOT THE EXCLUSIVE REMEDIES AVAILABLE TO A BORROWER. A BORROWER  
24 IS NOT REQUIRED TO EXHAUST ANY ADMINISTRATIVE REMEDIES PROVIDED  
25 UNDER THIS ACT OR ANY OTHER APPLICABLE LAW BEFORE PROCEEDING UNDER  
26 THIS SECTION.

27 (8) A PROVISION IN AN AGREEMENT FOR A HIGH-COST HOME LOAN THAT

1   ALLOWS A PERSON TO REQUIRE A BORROWER, INDIVIDUALLY OR ON BEHALF OF  
2   SIMILARLY SITUATED BORROWERS, TO ASSERT ANY LEGAL CLAIM OR DEFENSE  
3   IN A FORUM LOCATED OUTSIDE OF THIS STATE OR LIMITS IN ANY WAY A  
4   CLAIM OR DEFENSE THE BORROWER MAY HAVE IS VOID AND UNENFORCEABLE.

5           (9) A PERSON SHALL NOT ATTEMPT IN BAD FAITH TO AVOID THE  
6   APPLICATION OF THIS ACT BY DIVIDING ANY HOME LOAN TRANSACTION INTO  
7   SEPARATE PARTS, STRUCTURE A HOME LOAN TRANSACTION AS AN OPEN-END  
8   LOAN FOR THE PURPOSE OF EVADING THIS ACT IF THE LOAN WOULD HAVE  
9   BEEN A HIGH-COST HOME LOAN IF THE LOAN HAD BEEN STRUCTURED AS A  
10  CLOSED-END LOAN, OR ENGAGE IN ANY OTHER SUBTERFUGE WITH THE INTENT  
11  OF EVADING THIS ACT.

12           Sec. 12. ~~This act does not limit the authority of the~~  
13 ~~commissioner, the attorney general, or a county prosecutor to~~  
14 ~~enforce any law under which a person is chartered, organized,~~  
15 ~~licensed, registered, regulated, or otherwise authorized to do~~  
16 ~~business in this state.~~ **THE RIGHTS CONFERRED BY THIS ACT ARE**  
17 **INDEPENDENT OF AND IN ADDITION TO ANY OTHER RIGHTS UNDER OTHER**  
18 **LAWS.**

19           Sec. 15. ~~(1) The laws of this state relating to the~~  
20 ~~brokering, making, servicing, and collecting of mortgage loans~~  
21 ~~prescribe rules of conduct upon citizens generally, comprise a~~  
22 ~~comprehensive regulatory framework intended to operate uniformly~~  
23 ~~throughout the state under the same circumstances and conditions,~~  
24 ~~and constitute general laws of this state.~~

25           ~~(2) Silence in the statutes of this state with respect to any~~  
26 ~~act or practice in the brokering, making, servicing, or collecting~~  
27 ~~of mortgage loans shall not be interpreted to mean that the state~~

1 ~~has not completely occupied the field or has only set minimum~~  
2 ~~standards in its regulation of brokering, making, servicing, or~~  
3 ~~collecting of mortgage loans.~~

4 ~~—— (3) It is the intent of the legislature to entirely preempt~~  
5 ~~municipal corporations and other political subdivisions from the~~  
6 ~~regulation and licensing of persons engaged in the brokering,~~  
7 ~~making, servicing, or collecting of mortgage loans in this state.~~

8 **THIS ACT APPLIES TO ANY TRANSACTION INVOLVING REAL PROPERTY LOCATED**  
9 **IN THIS STATE.**

10 Enacting section 1. Sections 3, 6, 7, 11, 13, and 14 of the  
11 consumer mortgage protection act, 2002 PA 660, MCL 445.1633,  
12 445.1636, 445.1637, 445.1641, 445.1643, and 445.1644, are repealed.