

**SUBSTITUTE FOR  
HOUSE BILL NO. 4596**

A bill to amend 1987 PA 173, entitled  
"Mortgage brokers, lenders, and servicers licensing act,"  
by amending sections 6, 7, 8, and 25 (MCL 445.1656, 445.1657,  
445.1658, and 445.1675), sections 6, 7, and 8 as amended by 1996 PA  
210 and section 25 as amended by 1998 PA 371.

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

1       Sec. 6. (1) The following shall register with the commissioner  
2 on a form prescribed by the commissioner:

3       (a) A mortgage broker, mortgage lender, or mortgage servicer  
4 approved as a seller or servicer by the federal national mortgage  
5 association or the federal home loan mortgage corporation.

6       (b) A mortgage broker, mortgage lender, or mortgage servicer  
7 approved as an issuer or servicer by the government national

1 mortgage association.

2 (c) A real estate broker or real estate salesperson licensed  
3 under article 25 of the occupational code, ~~Act No. 299 of the~~  
4 ~~Public Acts of 1980, being sections 339.2501 to 339.2518 of the~~  
5 ~~Michigan Compiled Laws 1980 PA 299, MCL 339.2501 TO 339.2518~~, who  
6 acts as a mortgage broker for not more than 1 licensee or 1  
7 registrant, or who acts as a mortgage broker, mortgage lender, or  
8 mortgage servicer only in connection with real estate sales in  
9 which the real estate broker or salesperson affiliated with the  
10 real estate broker is engaged and who receives for ~~such~~-**THOSE**  
11 services additional compensation beyond the customary commission on  
12 real estate sales.

13 (d) A mortgage broker, mortgage lender, or mortgage servicer  
14 ~~which~~-**THAT** is a subsidiary or affiliate of a depository financial  
15 institution or a depository financial institution holding company  
16 if the depository institution does not maintain a main office or a  
17 branch office in this state.

18 (2) A registrant is not required to comply with section 3, 4,  
19 or 5 and is not subject to annual examination by the commissioner.

20 (3) A mortgage broker, mortgage lender, or a mortgage servicer  
21 ~~which~~-**THAT** is a subsidiary or affiliate of a depository financial  
22 institution or a subsidiary or affiliate of a holding company of a  
23 depository financial institution ~~shall~~-**IS** not ~~be~~-subject to section  
24 29(1)(b) or (c).

25 (4) Notwithstanding section 25(m), a mortgage broker, mortgage  
26 lender, or a mortgage servicer ~~which~~-**THAT** is a subsidiary or  
27 affiliate of a depository financial institution or a subsidiary or

1 affiliate of a holding company of a depository financial  
2 institution may register and become subject to the provisions of  
3 the act applicable to registrants.

4 (5) If a real estate broker or real estate salesperson acts as  
5 a mortgage broker, mortgage lender, or mortgage servicer not in  
6 connection with real estate sales in which the real estate broker  
7 or real estate salesperson affiliated with the real estate broker  
8 is engaged, the real estate broker or real estate salesperson shall  
9 be licensed or registered as otherwise required under this act.

10 (6) A real estate broker or real estate salesperson, in  
11 connection with real estate sales in which the real estate broker  
12 or real estate salesperson affiliated with the real estate broker  
13 is engaged, who acts as a mortgage broker on 10 or fewer mortgage  
14 loans in any 12-month period from ~~July~~ **JANUARY** 1 to ~~June 30~~  
15 **DECEMBER 31** and who receives for such services additional  
16 compensation beyond the customary commission on real estate sales  
17 shall be exempt from the registration or licensing requirements of  
18 this act for that 12-month period. If the broker and all real  
19 estate salespersons affiliated with the broker in aggregate  
20 brokered more than 30 mortgage loans as described in this  
21 subsection in the same 12-month period from ~~July~~ **JANUARY** 1 to ~~June~~  
22 ~~30~~ **DECEMBER 31**, then ~~such~~ **THAT** broker shall obtain a license or  
23 shall register as required by this act.

24 (7) A registration accepted by the commissioner under this  
25 section does not approve the use of or indemnify the registrant  
26 against claims for the improper use of the business name stated in  
27 the registration.

1       Sec. 7. (1) A registration or license, unless it is renewed,  
2 shall expire ~~June 30~~ **DECEMBER 31** of each year. A registration or  
3 license may be renewed by filing a registration or an application  
4 for license renewal and paying the annual operating fee for the  
5 succeeding year. The registration or application and payment shall  
6 be received by the commissioner on, or before, ~~June 15 of each year~~  
7 **A DATE PRESCRIBED BY THE COMMISSIONER.**

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

14       (a) A form prescribed by the commissioner.

15       (b) A report substantially similar to the form prescribed by  
16 the commissioner, which ~~report~~ the licensee or registrant  
17 ~~represents~~ **MUST REPRESENT** to the commissioner to be true and  
18 complete.

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

22       Sec. 8. (1) At the time of making an initial application for a  
23 license under this act, and at the time of making the first  
24 application for a license after the suspension or revocation of a  
25 license, the applicant shall pay to the commissioner a fee for  
26 investigating the applicant and the minimum annual operating fee  
27 established by the commissioner under subsection (3). To renew a

1 license that has not been suspended or revoked, the applicant shall  
2 only pay to the commissioner the annual operating fee. At the time  
3 of filing a registration or a renewal of a registration, a  
4 registrant shall pay to the commissioner an annual operating fee as  
5 provided by subsection (3).

6 (2) If the initial or renewed license or registration as  
7 provided in subsection (1) would have an effective date within 6  
8 months of the expiration date provided for in section 7, the  
9 initial or renewal annual operating fee for that license or  
10 registration shall be 1/2 of the annual operating fee.

11 (3) The commissioner shall annually establish the schedule of  
12 fees sufficient to pay, but not to exceed, the ~~bureau's~~ reasonably  
13 anticipated costs of **THE OFFICE OF FINANCIAL AND INSURANCE**  
14 **REGULATION IN** administering this act. The fees are as follows:

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

17 (b) Except as set forth in subdivision (c), a licensee or  
18 registrant annually shall pay an operating fee based upon the  
19 number of closed mortgage loans the licensee or registrant brokered  
20 to other parties, the number of mortgage loans closed by the  
21 licensee or registrant during the previous calendar year, and the  
22 dollar volume of loans serviced by the licensee or registrant as of  
23 December 31 of the previous calendar year. The operating fee during  
24 the first year after ~~enactment of this amendatory language~~ **JULY 2,**  
25 **1996** shall be not less than \$250.00 and not more than \$2,500.00.  
26 Thereafter, in the discretion of the commissioner, subject to the  
27 limitation set forth in this subsection, the maximum operating fee

1 may be increased at an annual rate of not more than 10% in the  
2 second, third, and fourth years following ~~enactment~~ **JULY 2, 1996,**  
3 and in the fifth and subsequent years, at an annual rate of not  
4 more than the annual increase for the immediately preceding 12-  
5 month period in the Detroit consumer price index as reported by the  
6 United States department of labor. For purposes of this  
7 subdivision, "mortgage loan" includes only mortgage loans subject  
8 to this act.

9 (c) For amending or reissuing a license or registration, not  
10 less than \$50.00 or more than \$200.00.

11 (d) A licensee or registrant shall pay the actual travel,  
12 lodging, and meal expenses incurred by ~~bureau~~ **employees OF THE**  
13 **OFFICE OF FINANCIAL AND INSURANCE REGULATION** who travel out of  
14 state to examine the records of the licensee or investigate the  
15 licensee or registrant and the cost of independent investigators  
16 employed under section 20(1)(e).

17 (4) Fees received ~~pursuant to~~ **UNDER** this act are not  
18 refundable.

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

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

27 (7) A licensee or registrant whose license or registration

1 renewal fee is not received on or before ~~June 30~~ **DECEMBER 31** is  
2 subject to a penalty of \$25.00 for each day the fee is delinquent  
3 or \$1,000.00, whichever is less.

4 (8) Money received under this act shall be deposited in the  
5 state treasury and credited to the ~~financial institutions bureau~~  
6 **OFFICE OF FINANCIAL AND INSURANCE REGULATION** to be used only for  
7 the operation of the ~~financial institutions bureau~~ **OFFICE OF**  
8 **FINANCIAL AND INSURANCE REGULATION.**

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

12 Sec. 25. This act does not apply to any of the following:

13 (a) A depository financial institution whether or not the  
14 depository financial institution is acting in a capacity of a  
15 trustee or fiduciary.

16 (b) A salesperson acting as an agent for a residential builder  
17 or residential maintenance and alteration contractor, or a  
18 residential builder or residential maintenance and alteration  
19 contractor licensed under article 24 of the occupational code, 1980  
20 PA 299, MCL 339.2401 to 339.2412, ~~when~~ **IF** a mortgage is made or  
21 negotiated in connection with the sale or financing of a  
22 residential structure or improvement constructed or improved by  
23 that residential builder or residential maintenance and alteration  
24 contractor.

25 (c) A real estate broker or real estate salesperson who is not  
26 a mortgage broker, mortgage lender, or mortgage servicer, or who  
27 only acts as a mortgage broker in connection with a real estate

1 sale or lease and acts without additional compensation beyond the  
2 customary commission on the sales or leases.

3 (d) A real estate salesperson who acts for a real estate  
4 broker as a mortgage broker, mortgage lender, or mortgage servicer  
5 and who receives for the services compensation only from the real  
6 estate broker for which the salesperson is an agent or employee.

7 (e) A person licensed under the secondary mortgage loan act,  
8 1981 PA 125, MCL 493.51 to 493.81, not making, brokering, or  
9 servicing mortgage loans as described in this act in a 12-month  
10 period from ~~July~~ **JANUARY 1** to ~~June 30~~ **DECEMBER 31**.

11 (f) Agencies or corporate instrumentalities of the United  
12 States and of this state and its political subdivisions, including  
13 the public employees' retirement system.

14 (g) A mortgage lender that in the aggregate with any  
15 affiliates makes 10 or fewer mortgage loans in a 12-month period  
16 from ~~July~~ **JANUARY 1** to ~~June 30~~ **DECEMBER 31**.

17 (h) A mortgage servicer that in the aggregate with any  
18 affiliates services 10 or fewer mortgage loans in a 12-month period  
19 from ~~July~~ **JANUARY 1** to ~~June 30~~ **DECEMBER 31**.

20 (i) A mortgage servicer that in the aggregate with any  
21 affiliates services only 75 or fewer land contracts, of which 10 or  
22 fewer require the collection of money for the payment of taxes or  
23 insurance. This subdivision and subdivision (h) do not exempt a  
24 mortgage servicer who collects money for the payment of taxes or  
25 insurance from the provisions of 1966 PA 125, MCL 565.161 to  
26 565.164. All fees shall be returned to any mortgage servicer  
27 described in this subdivision who applied for a license and paid



1 the fees required by this act and who on December 27, 1988 is  
2 exempted from licensing.

3 (j) An individual licensed to practice law in this state and  
4 not engaged in the business of negotiating loans secured by real  
5 property, ~~when~~**IF** the individual renders services in the course of  
6 his or her practice as an attorney-at-law.

7 (k) A person who makes mortgage loans exclusively for the  
8 benefit of employees of that person if the proceeds of the loan are  
9 used to assist the employee in meeting his or her housing needs.

10 (l) A person acting as a fiduciary with respect to any employee  
11 pension benefit plan qualified under the internal revenue code who  
12 makes mortgage loans solely to plan participants from plan assets.

13 (m) A mortgage broker, mortgage lender, or a mortgage servicer  
14 ~~which~~**THAT** is a subsidiary or affiliate of a depository financial  
15 institution or a subsidiary or affiliate of a holding company of a  
16 depository financial institution, ~~which~~**IF THE** depository financial  
17 institution maintains its main office or a branch office in this  
18 state.

19 (n) A nonprofit corporation that makes, brokers, or services  
20 mortgage loans in connection with a neighborhood housing program  
21 assisted under the neighborhood reinvestment corporation act, ~~title~~  
22 ~~VI of Public Law 95-557, 42 U.S.C. USC~~ 8101 to 8107.

23 (o) A person determined by the commissioner to meet the  
24 qualifications established under section 25a.

25 Enacting section 1. This amendatory act takes effect January  
26 1, 2009.