

SUBSTITUTE FOR
HOUSE BILL NO. 5288

A bill to amend 1987 PA 173, entitled
"Mortgage brokers, lenders, and servicers licensing act,"
(MCL 445.1651 to 445.1684) by adding section 2a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2A. (1) AN EMPLOYEE OR AGENT OF A LICENSEE OR REGISTRANT
2 SHALL NOT PERFORM SERVICES OF A LOAN OFFICER UNLESS HE OR SHE
3 REGISTERS OR OTHERWISE COMPLIES WITH THIS SECTION.

4 (2) IF AN INDIVIDUAL IS EMPLOYED OR ENGAGED AS AN AGENT TO
5 ORIGINATE MORTGAGE LOANS BY A LICENSEE OR REGISTRANT, THAT
6 INDIVIDUAL SHALL APPLY FOR LOAN OFFICER REGISTRATION UNDER THIS
7 SECTION WITHIN 90 DAYS AFTER HE OR SHE BEGINS PROVIDING SERVICES AS
8 AN EMPLOYEE OR AGENT OF THE LICENSEE OR REGISTRANT, BY SUBMITTING

1 THE APPLICATION DESCRIBED IN SUBSECTION (3), IN WRITING, AND
2 INCLUDING WITH THE APPLICATION THE ANNUAL OPERATING FEE ESTABLISHED
3 UNDER SECTION 8(3).

4 (3) THE COMMISSIONER SHALL PRESCRIBE THE FORM OF APPLICATION
5 FOR REGISTRATION AS A LOAN OFFICER. SUBJECT TO SUBSECTION (8), THE
6 APPLICATION FORM SHALL REQUIRE THAT AN APPLICANT PROVIDE AT LEAST
7 ALL OF THE FOLLOWING TO THE COMMISSIONER:

8 (A) THE NAME AND HOME ADDRESS OF THE APPLICANT.

9 (B) A STATEMENT AS TO WHETHER THE APPLICANT HAS EVER BEEN
10 CONVICTED OF, OR PLED NO CONTEST TO, ANY OF THE FOLLOWING:

11 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A
12 FINANCIAL TRANSACTION, OR SECURITIES.

13 (ii) A FELONY.

14 (C) A STATEMENT AS TO WHETHER THE APPLICANT HAS HAD AN
15 APPLICATION DENIED, OR A LICENSE, REGISTRATION, OR SIMILAR
16 AUTHORITY REVOKED OR SUSPENDED, TO PRACTICE ANY PROFESSION OR
17 OCCUPATION IN ANY JURISDICTION, INCLUDING, BUT NOT LIMITED TO,
18 LICENSURE OR REGISTRATION AS A MORTGAGE BROKER, MORTGAGE LENDER, OR
19 MORTGAGE SERVICER IN WHICH THE APPLICANT HELD MORE THAN 25% OF THE
20 OWNERSHIP INTEREST OR AS A LOAN OFFICER.

21 (D) EXCEPT FOR AN APPLICATION DESCRIBED IN SUBSECTION (6),
22 PROOF IN THE FORM OF A CERTIFICATE OF COMPLETION OR OTHER EVIDENCE
23 ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT HAS COMPLETED AT
24 LEAST 24 HOURS OF LIVE PROFESSIONAL CLASSROOM INSTRUCTION IN THIS
25 STATE IN AN INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE LENDING
26 THAT IS SPONSORED OR PROVIDED BY A PERSON, AND TAUGHT BY AN
27 INSTRUCTOR, APPROVED BY THE COMMISSIONER. THE 24 HOURS OF

1 INSTRUCTION SHALL INCLUDE AT LEAST 3 HOURS OF LIVE CLASSROOM
2 INSTRUCTION CONCERNING STATE AND FEDERAL LAWS AND REGULATIONS
3 GOVERNING RESIDENTIAL MORTGAGE LENDING, THE CONTENT OF WHICH HAS
4 BEEN APPROVED BY THE COMMISSIONER.

5 (E) EVIDENCE ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT
6 CORRECTLY ANSWERED AT LEAST 75% OF THE QUESTIONS ON AN EXAMINATION
7 APPROVED BY THE COMMISSIONER THAT TESTS AN APPLICANT'S KNOWLEDGE OF
8 THE CONTENTS OF THE INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE
9 LENDING DESCRIBED IN SUBDIVISION (D).

10 (F) THE RESULTS OF A CRIMINAL RECORDS CHECK OF THE APPLICANT
11 CONDUCTED BY THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
12 PRINCIPAL OF THE APPLICANT, THAT INCLUDES A CHECK OF THE
13 APPLICANT'S FINGERPRINTS, TAKEN BY A LAW ENFORCEMENT AGENCY OR ANY
14 OTHER PERSON DETERMINED BY THE DEPARTMENT TO BE QUALIFIED TO TAKE
15 FINGERPRINTS.

16 (G) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

17 (4) AN APPLICANT FOR LOAN OFFICER REGISTRATION MAY PERFORM
18 SERVICES AS A LOAN OFFICER WHILE HIS OR HER APPLICATION IS PENDING
19 IF ALL OF THE FOLLOWING ARE MET:

20 (A) THE APPLICANT HAS SUBMITTED HIS OR HER FINGERPRINTS TO THE
21 LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR PRINCIPAL OF THE
22 APPLICANT FOR PURPOSES OF THE CRIMINAL RECORDS CHECK DESCRIBED IN
23 SUBSECTION (3) (F).

24 (B) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
25 PRINCIPAL OF THE APPLICANT HAS SUBMITTED THE REQUEST FOR THE
26 CRIMINAL RECORDS CHECK OF THE APPLICANT DESCRIBED IN SUBSECTION
27 (3) (F) TO THE LAW ENFORCEMENT AGENCY OR PERSON THAT IS CONDUCTING

1 THAT RECORDS CHECK OF THE APPLICANT ON BEHALF OF THE LICENSEE OR
2 REGISTRANT THAT IS THE EMPLOYER OR PRINCIPAL OF THE APPLICANT.

3 (C) IF THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
4 PRINCIPAL OF THE APPLICANT RECEIVES THE RESULTS OF THE CRIMINAL
5 RECORDS CHECK SUBMITTED UNDER SUBDIVISION (B) WHILE THE LOAN
6 OFFICER REGISTRATION APPLICATION IS PENDING, THE CRIMINAL RECORDS
7 CHECK DOES NOT DISCLOSE THAT THE APPLICANT HAS BEEN CONVICTED OF,
8 OR PLED NO CONTEST TO, ANY OF THE FOLLOWING:

9 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A
10 FINANCIAL TRANSACTION, OR SECURITIES.

11 (ii) A FELONY.

12 (D) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
13 PRINCIPAL OF THE APPLICANT HAS PROVIDED THE COMMISSIONER WITH
14 WRITTEN NOTICE THAT THE APPLICANT IS BEGINNING TO PROVIDE SERVICES
15 AS A LOAN OFFICER FOR THE LICENSEE OR REGISTRANT.

16 (5) THE COMMISSIONER SHALL NOT ISSUE A REGISTRATION TO ANY OF
17 THE FOLLOWING:

18 (A) AN APPLICANT WHO HAS BEEN CONVICTED OF, OR PLED NO CONTEST
19 TO, ANY OF THE FOLLOWING:

20 (i) A MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY, FRAUD, A
21 FINANCIAL TRANSACTION, OR SECURITIES.

22 (ii) A FELONY.

23 (B) AN APPLICANT AGAINST WHOM THE COMMISSIONER HAS ISSUED A
24 PROHIBITION ORDER UNDER SECTION 18A.

25 (6) THE COMMISSIONER MUST REGISTER A LOAN OFFICER WHO MEETS
26 ALL OF THE FOLLOWING:

27 (A) FOR THE 5-YEAR PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE

1 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, HE OR SHE MEETS
2 ANY OF THE FOLLOWING:

3 (i) WAS EMPLOYED OR ENGAGED AS A LOAN OFFICER FOR AT LEAST 4-
4 1/2 YEARS BY 1 OR MORE LICENSEES, REGISTRANTS, OR PERSONS EXEMPT
5 FROM THIS ACT UNDER SECTION 25.

6 (ii) CONTINUOUSLY OWNED AT LEAST A 25% INTEREST IN A LICENSEE
7 OR REGISTRANT.

8 (B) HE OR SHE WAS NOT THE SUBJECT OF ANY PROHIBITION ORDERS
9 ISSUED BY THE COMMISSIONER UNDER SECTION 18A IN THE 5-YEAR PERIOD
10 IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
11 ADDED THIS SECTION.

12 (C) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
13 ACT THAT ADDED THIS SECTION, HE OR SHE TAKES THE EXAMINATION
14 DESCRIBED IN SUBSECTION (3) (E) AND CORRECTLY ANSWERS AT LEAST 75%
15 OF THE QUESTIONS ON THE EXAMINATION.

16 (D) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
17 ACT THAT ADDED THIS SECTION, HE OR SHE SUBMITS AN APPLICATION UNDER
18 SUBSECTION (3). HOWEVER, THE APPLICANT IS NOT REQUIRED TO COMPLETE
19 OR SUBMIT PROOF OF COMPLETION OF THE INSTRUCTION DESCRIBED IN
20 SUBSECTION (3) (D).

21 (E) HE OR SHE IS NOT AN APPLICANT DESCRIBED IN SUBSECTION (5).

22 (7) AN EMPLOYEE OR AGENT OF A MORTGAGE BROKER, MORTGAGE
23 LENDER, OR MORTGAGE SERVICER THAT IS EXEMPT FROM LICENSING OR
24 REGISTRATION UNDER THIS ACT MAY APPLY TO BE A LOAN OFFICER
25 REGISTRANT UNDER THIS SECTION.

26 (8) THE COMMISSIONER MAY WAIVE ANY OF THE REQUIREMENTS OF THIS
27 SECTION FOR LOAN OFFICER REGISTRATION IF THE APPLICANT HAS A VALID,

1 SIMILAR LICENSE OR REGISTRATION FROM ANOTHER STATE THAT HAS A
2 RECIPROCAL AGREEMENT WITH THE COMMISSIONER.

3 (9) THE COMMISSIONER MAY DISCLOSE, PROVIDE, OR MAKE AVAILABLE
4 TO THE PUBLIC THE NAMES, BUSINESS ADDRESSES, AND BUSINESS TELEPHONE
5 NUMBERS OF LOAN OFFICER REGISTRANTS. THE COMMISSIONER SHALL NOT
6 DISCLOSE, PROVIDE, OR MAKE AVAILABLE TO THE PUBLIC ANY OTHER
7 PERSONAL IDENTIFYING INFORMATION ABOUT LOAN OFFICER REGISTRANTS OR
8 APPLICANTS FOR LOAN OFFICER REGISTRATION.

9 (10) AN INDIVIDUAL EMPLOYED OR ENGAGED AS AN AGENT BY A
10 LICENSEE OR REGISTRANT AS A LOAN OFFICER SHALL NOT USE THE TITLE OR
11 DESIGNATION "LOAN OFFICER", "LOAN ORIGINATOR", "MORTGAGE LOAN
12 OFFICER", OR "MORTGAGE LOAN ORIGINATOR" IF HE OR SHE IS NOT A LOAN
13 OFFICER REGISTRANT. A LOAN OFFICER REGISTRANT AND THE EMPLOYER OR
14 PRINCIPAL OF A LOAN OFFICER REGISTRANT SHALL NOT USE THE WORD
15 "REGISTERED", "CERTIFIED", OR ANY WORD OF SIMILAR IMPORT IN HIS OR
16 HER TITLE OR DESIGNATION TO IDENTIFY HIM OR HER AS AN INDIVIDUAL
17 WHO HAS MET THE REGISTRATION REQUIREMENTS OF THIS ACT UNLESS USE OF
18 THAT WORD IS APPROVED BY THE OFFICE OF FINANCIAL AND INSURANCE
19 SERVICES.

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

23 (a) Senate Bill No. 826.

24 (b) Senate Bill No. 827.

25 (c) Senate Bill No. 828.

26 (d) Senate Bill No. 829.

27 (e) Senate Bill No. 830.

- 1 (f) Senate Bill No. 831.
- 2 (g) Senate Bill No. 832.
- 3 (h) Senate Bill No. 833.
- 4 (i) House Bill No. 5287.
- 5 (j) House Bill No. 5289.
- 6 (k) House Bill No. 5290.
- 7 (l) House Bill No. 5291.