

SENATE SUBSTITUTE FOR

HOUSE BILL NO. 5288

(As amended, February 27, 2008)

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) BEGINNING JANUARY 1, 2009, AN EMPLOYEE OR AGENT
2 OF A LICENSEE OR REGISTRANT SHALL NOT PERFORM SERVICES OF A LOAN
3 OFFICER UNLESS HE OR SHE REGISTERS OR OTHERWISE COMPLIES WITH THIS
4 SECTION.

 <<(2) BEGINNING JANUARY 1, 2009, A LICENSEE OR REGISTRANT THAT
 EMPLOYS OR OFFERS TO EMPLOY, OR ENGAGES OR OFFERS TO ENGAGE AS AN AGENT,
 AN INDIVIDUAL TO ORIGINATE MORTGAGE LOANS SHALL CONDUCT A CRIMINAL
 RECORDS CHECK OF THAT INDIVIDUAL AND SUBMIT THE RESULTS OF THE CRIMINAL
 RECORDS CHECK TO THE COMMISSIONER. A CRIMINAL RECORDS CHECK UNDER THIS
 SUBSECTION SHALL INCLUDE A CHECK OF THE INDIVIDUAL'S FINGERPRINTS, TAKEN
 BY A LAW ENFORCEMENT AGENCY OR OTHER PERSON DETERMINED BY THE
 COMMISSIONER TO BE QUALIFIED TO TAKE FINGERPRINTS.>>

5 <<(3)>>BEGINNING JANUARY 1, 2009, IF AN INDIVIDUAL IS EMPLOYED OR
6 ENGAGED AS AN AGENT TO ORIGINATE MORTGAGE LOANS BY A LICENSEE OR
7 REGISTRANT, THAT INDIVIDUAL SHALL APPLY FOR LOAN OFFICER
8 REGISTRATION UNDER THIS SECTION WITHIN 90 DAYS AFTER HE OR SHE
9 BEGINS PROVIDING SERVICES AS AN EMPLOYEE OR AGENT OF THE LICENSEE
10 OR REGISTRANT, BY SUBMITTING THE APPLICATION DESCRIBED IN

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1 SUBSECTION <<(4)>>, IN WRITING, AND INCLUDING WITH THE APPLICATION THE
2 ANNUAL OPERATING FEE ESTABLISHED UNDER SECTION 8(3).

3 <<(4)>> THE COMMISSIONER SHALL PRESCRIBE THE FORM OF APPLICATION
4 FOR REGISTRATION AS A LOAN OFFICER. SUBJECT TO SUBSECTION <<(9)>>, THE
5 APPLICATION FORM SHALL REQUIRE THAT AN APPLICANT PROVIDE AT LEAST
6 ALL OF THE FOLLOWING TO THE COMMISSIONER:

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

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

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

12 (ii) A FELONY.

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

20 (D) EXCEPT FOR AN APPLICATION DESCRIBED IN SUBSECTION <<(7)>>,
21 PROOF IN THE FORM OF A CERTIFICATE OF COMPLETION OR OTHER EVIDENCE
22 ACCEPTABLE TO THE COMMISSIONER THAT THE APPLICANT HAS COMPLETED AT
23 LEAST 24 HOURS OF LIVE PROFESSIONAL CLASSROOM INSTRUCTION IN THIS
24 STATE IN AN INTRODUCTORY COURSE IN RESIDENTIAL MORTGAGE LENDING
25 THAT IS SPONSORED OR PROVIDED BY A PERSON, AND TAUGHT BY AN
26 INSTRUCTOR, APPROVED BY THE COMMISSIONER. THE 24 HOURS OF
27 INSTRUCTION SHALL INCLUDE AT LEAST 3 HOURS OF LIVE CLASSROOM

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1 INSTRUCTION CONCERNING STATE AND FEDERAL LAWS AND REGULATIONS
2 GOVERNING RESIDENTIAL MORTGAGE LENDING, THE CONTENT OF WHICH HAS
3 BEEN APPROVED BY THE COMMISSIONER.

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

9 <<(F) A COPY OF THE RESULTS OF THE CRIMINAL RECORDS CHECK DESCRIBED
10 IN SUBSECTION (2).

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

16 <<(5)>> BEGINNING JANUARY 1, 2009, AN APPLICANT FOR LOAN OFFICER
17 REGISTRATION MAY PERFORM SERVICES AS A LOAN OFFICER WHILE HIS OR
18 HER APPLICATION IS PENDING IF ALL OF THE FOLLOWING ARE MET:

19 (A) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
20 PRINCIPAL OF THE APPLICANT HAS COMPLETED THE CRIMINAL RECORDS CHECK
21 OF THE APPLICANT DESCRIBED IN SUBSECTION <<(2) AND SUBMITTED THE RESULTS
OF THAT CRIMINAL RECORDS CHECK TO THE COMMISSIONER>>.

22 (B) THE CRIMINAL RECORDS CHECK DESCRIBED IN SUBDIVISION (A)
23 DOES NOT DISCLOSE THAT THE APPLICANT HAS BEEN CONVICTED OF, OR PLED
24 NO CONTEST TO, ANY OF THE FOLLOWING:

25 (i) A FELONY OR MISDEMEANOR INVOLVING EMBEZZLEMENT, FORGERY,
26 FRAUD, A FINANCIAL TRANSACTION, OR SECURITIES.

27 (ii) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE

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1 APPLICATION FOR RENEWAL, A FELONY OTHER THAN A FELONY DESCRIBED IN
2 SUBPARAGRAPH (i) .

3 (C) THE LICENSEE OR REGISTRANT THAT IS THE EMPLOYER OR
4 PRINCIPAL OF THE APPLICANT HAS PROVIDED THE COMMISSIONER WITH
5 WRITTEN NOTICE THAT THE APPLICANT IS BEGINNING TO PROVIDE SERVICES
6 AS A LOAN OFFICER FOR THE LICENSEE OR REGISTRANT.

7 <<(6)>> THE COMMISSIONER SHALL NOT ISSUE A REGISTRATION TO ANY OF
8 THE FOLLOWING:

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

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

13 (ii) WITHIN THE 10-YEAR PERIOD PRECEDING THE DATE OF THE
14 APPLICATION FOR RENEWAL, A FELONY OTHER THAN A FELONY DESCRIBED IN
15 SUBPARAGRAPH (i) .

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

<<(C) AN APPLICANT FOR WHOM THE COMMISSIONER HAS NOT RECEIVED THE
RESULTS OF THE CRIMINAL RECORDS CHECK DESCRIBED IN SUBSECTION (2) .

18 (7)>> THE COMMISSIONER MUST REGISTER A LOAN OFFICER WHO MEETS
19 ALL OF THE FOLLOWING:

20 (A) FOR THE 5-YEAR PERIOD IMMEDIATELY PRECEDING THE EFFECTIVE
21 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, HE OR SHE WAS
22 EMPLOYED OR ENGAGED AS A LOAN OFFICER FOR AT LEAST 4-1/2 YEARS BY 1
23 OR MORE LICENSEES, REGISTRANTS, OR PERSONS EXEMPT FROM THIS ACT
24 UNDER SECTION 25.

25 (B) HE OR SHE WAS NOT THE SUBJECT OF ANY PROHIBITION ORDERS
26 ISSUED BY THE COMMISSIONER UNDER SECTION 18A IN THE 5-YEAR PERIOD
27 IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT

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1 ADDED THIS SECTION.

2 (C) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
3 ACT THAT ADDED THIS SECTION, HE OR SHE TAKES THE EXAMINATION
4 DESCRIBED IN SUBSECTION <<(4)(E)>> AND CORRECTLY ANSWERS AT LEAST 75%
5 OF THE QUESTIONS ON THE EXAMINATION.

6 (D) WITHIN 8 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
7 ACT THAT ADDED THIS SECTION, HE OR SHE SUBMITS AN APPLICATION UNDER
8 SUBSECTION <<(4)>>. HOWEVER, THE APPLICANT IS NOT REQUIRED TO COMPLETE
9 OR SUBMIT PROOF OF COMPLETION OF THE INSTRUCTION DESCRIBED IN
10 SUBSECTION <<(4)(D)>>.

11 (E) HE OR SHE IS NOT AN APPLICANT DESCRIBED IN SUBSECTION <<(6)>>.
12 <<(8)>> AN EMPLOYEE OR AGENT OF A MORTGAGE BROKER, MORTGAGE
13 LENDER, OR MORTGAGE SERVICER THAT IS EXEMPT FROM LICENSING OR
14 REGISTRATION UNDER THIS ACT MAY APPLY TO BE A LOAN OFFICER
15 REGISTRANT UNDER THIS SECTION.

16 <<(9)>> THE COMMISSIONER MAY WAIVE ANY OF THE REQUIREMENTS OF THIS
17 SECTION FOR LOAN OFFICER REGISTRATION IF THE APPLICANT HAS A VALID,
18 SIMILAR LICENSE OR REGISTRATION FROM ANOTHER STATE THAT HAS A
19 RECIPROCAL AGREEMENT WITH THE COMMISSIONER, EXCEPT <<SUBSECTION (6)(A)
20 AND (C)>>

21 <<(10)>> THE COMMISSIONER MAY DISCLOSE, PROVIDE, OR MAKE AVAILABLE
22 TO THE PUBLIC THE NAMES, BUSINESS ADDRESSES, AND BUSINESS TELEPHONE
23 NUMBERS OF LOAN OFFICER REGISTRANTS. THE COMMISSIONER SHALL NOT
24 DISCLOSE, PROVIDE, OR MAKE AVAILABLE TO THE PUBLIC ANY OTHER
25 PERSONAL IDENTIFYING INFORMATION ABOUT LOAN OFFICER REGISTRANTS OR
26 APPLICANTS FOR LOAN OFFICER REGISTRATION.

27 <<(11)>> BEGINNING JANUARY 1, 2009, AN INDIVIDUAL EMPLOYED OR

1 ENGAGED AS AN AGENT BY A LICENSEE OR REGISTRANT AS A LOAN OFFICER
2 SHALL NOT USE THE TITLE OR DESIGNATION "LOAN OFFICER", "LOAN
3 ORIGINATOR", "MORTGAGE LOAN OFFICER", OR "MORTGAGE LOAN ORIGINATOR"
4 IF HE OR SHE IS NOT A LOAN OFFICER REGISTRANT. A LOAN OFFICER
5 REGISTRANT AND THE EMPLOYER OR PRINCIPAL OF A LOAN OFFICER
6 REGISTRANT SHALL NOT USE THE WORD "REGISTERED", "CERTIFIED", OR ANY
7 WORD OF SIMILAR IMPORT IN HIS OR HER TITLE OR DESIGNATION TO
8 IDENTIFY HIM OR HER AS AN INDIVIDUAL WHO HAS MET THE REGISTRATION
9 REQUIREMENTS OF THIS ACT UNLESS USE OF THAT WORD IS APPROVED BY THE
10 OFFICE OF FINANCIAL AND INSURANCE SERVICES.

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

- 14 (a) Senate Bill No. 826.
- 15 (b) Senate Bill No. 827.
- 16 (c) Senate Bill No. 828.
- 17 (d) Senate Bill No. 829.
- 18 (e) Senate Bill No. 830.
- 19 (f) Senate Bill No. 831.
- 20 (g) Senate Bill No. 832.
- 21 (h) Senate Bill No. 833.
- 22 (i) House Bill No. 5287.
- 23 (j) House Bill No. 5289.
- 24 (k) House Bill No. 5290.
- 25 (l) House Bill No. 5291.