

MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT (EXCERPT)
Act 173 of 1987

445.1661 Powers of commissioner generally.

Sec. 11. (1) The commissioner shall exercise general supervision and control over mortgage brokers, mortgage lenders, and mortgage servicers doing business in this state.

(2) In addition to the other powers granted to the commissioner by this act, the commissioner shall have all of the following powers:

(a) To promulgate reasonable rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement and administer this act.

(b) To deny an application for a license or registration.

(c) To conduct examinations and investigations of any person as necessary for the efficient enforcement of this act and the rules promulgated under this act.

(d) To advise the attorney general or the prosecuting attorney of a county in which a mortgage broker, mortgage lender, or mortgage servicer is conducting business that the commissioner believes a licensee, registrant, or other person is violating this act. The attorney general or prosecuting attorney may take appropriate legal action to enjoin the operation of the business of the mortgage broker, mortgage lender, or mortgage servicer or prosecute violations of this act.

(e) To bring an action in the Ingham county circuit court in the name and on behalf of this state against a licensee, registrant, or any other person that is participating in, or about to participate in, any unsafe or injurious practice or act in violation of this act or a rule promulgated under this act, to enjoin the person from participating in or continuing the practice or engaging in the act.

(f) To order a person to cease and desist from a violation of this act or a rule promulgated under this act under section 16.

(g) To suspend or revoke a license or registration under section 29.

(h) To require that restitution be made under section 29.

(i) To assess a civil fine under section 29.

(j) To censure a licensee or registrant.

(k) To issue an order to prohibit a person from being employed by, an agent of, or control person of a licensee or registrant under section 18a.

History: 1987, Act 173, Imd. Eff. Nov. 18, 1987;—Am. 2002, Act 391, Imd. Eff. May 30, 2002;—Am. 2008, Act 62, Imd. Eff. Apr. 3, 2008;—Am. 2009, Act 76, Eff. July 31, 2010.

Constitutionality: In *Wachovia Bank v Watters*, 431 F 3d 556 (2005), the 6th circuit court of appeals held that the national bank act and implementing federal regulations preempt conflicting Michigan law as to provisions requiring registration before a mortgage lender may conduct business in Michigan, payment of registration and renewal fees, submission of financial statements, and certain investigatory and regulatory powers of the insurance commissioner. (United States Supreme Court granted certiorari June 1, 2006.)

Compiler's note: For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.