

MORTGAGE LOAN ORIGINATOR LICENSING ACT (EXCERPT)
Act 75 of 2009

493.157 Fraud; notice of intent to prohibit licensure; contents; hearing; order; service; application to terminate order; imminent threat of financial loss to customers; conviction of felony; mailing of notice or issued to employer or principal; decision; judicial review; enforcement; violation of final order; "fraud" defined.

Sec. 27.

(1) If in the opinion of the commissioner an individual has engaged in fraud, the commissioner may serve on that person a written notice of intention to prohibit that individual from being licensed under this act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), shall set a hearing on a date within 60 days after the date of the notice. If the individual does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being licensed under this act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts.

(4) An order issued under subsection (2) or (3) is effective when served on an individual. The commissioner shall also serve a copy of the order upon the licensee of which the individual is an employee or agent. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the individual subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that an individual served a notice under subsection (1) poses an imminent threat of financial loss to customers, the commissioner may serve on that individual an order of suspension from being employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect until the commissioner completes the review required under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the individual served with an order issued under subsection (6), the commissioner shall hold the hearing required under subsection (2) to review the suspension not earlier than 5 days or later than 20 days after the date of the notice.

(8) If an individual is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting him or her from being licensed under this act, licensed or registered under any of the financial licensing acts, or employed by, an agent of, or a control person of a licensee or registrant under any of the financial licensing acts. After 5 years from the date of the order, the individual subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the employer or principal of the individual subject to the notice or order.

(10) Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that includes findings of fact supporting the decision and serve on each party to the proceeding a copy of the decision and an order consistent with the decision.

(11) Except for a consent order, a party to the proceeding or a person affected by an order issued under this section may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(12) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (11) does not stay the commissioner's order.

(13) The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under this section.

(14) Any individual who violates a final order issued under this section is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

(15) As used in this section, "fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

History: 2009, Act 75, Eff. July 31, 2009