

THE SECONDARY MORTGAGE LOAN ACT (EXCERPT)
Act 125 of 1981

***** 493.51.amended THIS AMENDED SECTION IS EFFECTIVE JULY 31, 2010 *****

493.51.amended Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as "the secondary mortgage loan act".

(2) As used in this act:

(a) "Broker" means a person who, directly or indirectly, does 1 or both of the following:

(i) Serves or offers to serve as an agent for a person attempting to obtain a secondary mortgage loan.

(ii) Serves or offers to serve as an agent for a person who makes or offers to make a secondary mortgage loan.

(b) "Commissioner" means the commissioner of the office of financial and insurance regulation of the department of energy, labor, and economic growth or his or her authorized representatives.

(c) "Control person" means a director or executive officer of a licensee or registrant or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee or registrant.

(d) "Depository financial institution" means a state or nationally chartered bank, state or federal chartered savings and loan association, savings bank, or credit union, or any other institution whose deposits are insured by an agency of the federal government.

(e) "Employee" means an individual who meets both of the following:

(i) Has an employment relationship acknowledged by that individual and the licensee or registrant that engages that individual to originate secondary mortgage loans.

(ii) Is treated as an employee by the licensee or registrant that engages that individual to originate secondary mortgage loans for compliance with federal income tax laws.

(f) "Executive officer" means an officer, member, or partner of a licensee or registrant. The term includes the chief executive officer, president, vice president, chief financial officer, controller, or compliance officer, or an individual holding any other similar position.

(g) "Financial licensing act" means any of the financial licensing acts, as that term is defined in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(h) "Lender" means a person who, directly or indirectly, makes or offers to make secondary mortgage loans.

(i) "Licensed secondary mortgage loan officer" means a secondary mortgage loan officer who is licensed as a mortgage loan originator under the mortgage loan originator licensing act.

(j) "Licensee" means a person licensed or required to be licensed under this act.

(k) "Loan servicing customer" means a mortgagor whose secondary mortgage loan is being serviced by a servicer.

(l) "Open-end credit" means credit extended under a plan in which both of the following apply:

(i) The licensee or registrant reasonably contemplates repeated transactions.

(ii) The amount of credit that may be extended to the borrower during the term of the plan is generally made available to the extent that any part of the outstanding balance is repaid.

(m) "Originate" means any of the following:

(i) To negotiate, arrange, or offer to negotiate or arrange a secondary mortgage loan between a lender and 1 or more individuals.

(ii) To place, assist in placing, or find a secondary mortgage loan for 1 or more individuals.

(n) "Person" means an individual, corporation, limited liability company, partnership, association, or other legal entity.

(o) "Registrant" means a person that is registered or required to register as a broker, lender, or servicer under this act. The term does not include a depository financial institution.

(p) "Secondary mortgage loan" means a loan that has a term of 90 days or more; that is made to a person for personal, family, or household purposes; and that is secured by a mortgage on an interest in real property that is used as a dwelling and is subject to a lien of 1 or more outstanding mortgages. A secondary mortgage loan may be secured by other collateral in addition to real property. Notwithstanding the place of execution, nominal or real, of a secondary mortgage loan, if the real property that secures the loan is located in this state, a secondary mortgage loan is subject to this act and all other applicable laws of this state.

(q) "Secondary mortgage loan officer" means an individual who is an employee or agent of a broker, lender, or servicer; who originates secondary mortgage loans; and who is not an employee or agent of a depository financial institution or a subsidiary or affiliate of a depository financial institution.

(r) "Service" means the collection or remittance for a lender, noteowner, or noteholder or a licensee's own account of 4 or more installment payments of the principal of, interest of, or an amount placed in escrow under a secondary mortgage loan, mortgage servicing agreement, or an agreement with a mortgagor.

(s) "Servicer" means a person who, directly or indirectly, services or offers to service secondary mortgage loans.

History: 1981, Act 125, Imd. Eff. July 23, 1981;—Am. 1989, Act 66, Imd. Eff. June 16, 1989;—Am. 1995, Act 164, Eff. Mar. 28, 1996;—Am. 1997, Act 91, Imd. Eff. Aug. 1, 1997;—Am. 2002, Act 392, Imd. Eff. May 30, 2002;—Am. 2008, Act 325, Imd. Eff. Dec. 18, 2008;—Am. 2009, Act 14, Imd. Eff. Apr. 9, 2009;—Am. 2009, Act 77, Eff. July 31, 2010.

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.

Popular name: Secondary Mortgage Loan Act