

SENATE BILL No. 315

March 16, 2005, Introduced by Senators STAMAS, GOSCHKA and BISHOP and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1987 PA 173, entitled
"Mortgage brokers, lenders, and servicers licensing act,"
by amending section 2 (MCL 445.1652), as amended by 2002 PA 4.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) A person shall not act as a mortgage broker,
2 mortgage lender, or mortgage servicer without first obtaining a
3 license or registering under this act, unless 1 or more of the
4 following apply:

5 (a) The person is ~~solely~~ **AN INDIVIDUAL WHO IS** performing
6 services as an employee **OR AGENT** of only 1 mortgage broker,
7 mortgage lender, or mortgage servicer.

8 (b) The person is exempted from ~~the~~ **THIS** act under section
9 25.

1 (c) The person is licensed as a class I licensee under the
2 consumer financial services act, 1988 PA 161, MCL 487.2051 to
3 487.2072.

4 (2) A person that is licensed to make regulatory loans under
5 the regulatory loan act, ~~of 1963,~~ 1939 PA 21, MCL 493.1 to ~~493.25~~
6 **493.24**, or is licensed to make secondary mortgage loans under the
7 secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and
8 is registered with the commissioner shall file with the
9 commissioner an application for a license under section 3(1) or
10 shall discontinue all activities that are subject to this act.

11 (3) Unless a residential mortgage originator is ~~otherwise~~
12 licensed or registered **AS A MORTGAGE BROKER, MORTGAGE LENDER, OR**
13 **MORTGAGE SERVICER** under this act **OR IS A MORTGAGE BROKER, MORTGAGE**
14 **LENDER, OR MORTGAGE SERVICER EXEMPT FROM LICENSING OR REGISTRATION**
15 **UNDER THIS ACT**, a residential mortgage originator shall not receive
16 directly or indirectly any compensation, commission, fee, points,
17 or other remuneration or benefits from a mortgage broker, mortgage
18 lender, or mortgage servicer other than the employer of the
19 residential mortgage originator.

20 (4) Unless a residential mortgage originator is ~~otherwise~~
21 licensed or registered **AS A MORTGAGE BROKER, MORTGAGE LENDER, OR**
22 **MORTGAGE SERVICER** under this act **OR IS A MORTGAGE BROKER, MORTGAGE**
23 **LENDER, OR MORTGAGE SERVICER EXEMPT FROM LICENSING OR REGISTRATION**
24 **UNDER THIS ACT**, a mortgage broker, mortgage lender, or mortgage
25 servicer shall not pay directly or indirectly any compensation,
26 commission, fee, points, or other remuneration or benefits to a
27 residential mortgage originator other than an employee of the

1 mortgage broker, mortgage lender, or mortgage servicer. As used in
2 this subsection and subsection (3), "residential mortgage
3 originator" means a person who assists another person in obtaining
4 a mortgage loan.

5 (5) A mortgage broker, mortgage lender, or mortgage servicer
6 that ~~was~~ **IS** exempt from regulation under this act and is a
7 subsidiary or affiliate of a depository financial institution or a
8 depository financial institution holding company that does not
9 maintain a main office or branch office in this state, shall
10 register under section 6 or shall discontinue all activities
11 subject to this act.

12 (6) Except for a state or nationally chartered bank, savings
13 bank, or an affiliate of a bank or savings bank, ~~the~~ **A** person
14 subject to this act shall not include in its name or assumed name,
15 the words "bank", "banker", "banking", "banc", "bankcorp",
16 "bancorp", or any other words or phrases that would imply that the
17 person is a bank, is engaged in the business of banking, or is
18 affiliated with a bank or savings bank. It is not a violation of
19 this subsection for a licensee or registrant to use the term
20 "mortgage banker" or "mortgage banking" in its name or assumed
21 name. A person subject to this act whose name or assumed name on
22 January 1, 1995 contained a word prohibited by this section may
23 continue to use the name or assumed name.