

SENATE BILL No. 384

March 28, 2007, Introduced by Senators RICHARDVILLE, BARCIA and PAPPAGEORGE and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1981 PA 125, entitled
"The secondary mortgage loan act,"
by amending section 22 (MCL 493.72), as amended by 1997 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) Other charges and fees shall not be made,
2 directly or indirectly, in connection with the making of a
3 secondary mortgage loan, except for any of the following, which may
4 be included in the principal of the loan, **AND EXCEPT FOR A FEE**
5 **DESCRIBED IN SUBSECTION (3):**

6 (a) Charges for credit life insurance or credit accident and
7 health insurance as defined in the credit insurance act, 1958 PA
8 173, MCL 550.601 to 550.624, or any other insurance under the
9 insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, that

1 is offered by the licensee or registrant and that may be purchased
2 at the option of the borrower.

3 (b) Reasonable and necessary charges that are the actual
4 expenses incurred by the licensee, registrant, or exclusive broker
5 in connection with the making, closing, disbursing, extending,
6 readjusting, or renewing of a secondary mortgage loan.

7 (c) A nonrefundable processing fee that is not more than 5% of
8 the gross amount of the loan.

9 (d) Other charges as authorized by the credit reform act, 1995
10 PA 162, MCL 445.1851 to 445.1864.

11 (e) A reasonable annual fee for the privilege of receiving
12 open-end credit from the licensee or registrant.

13 (2) ~~The ANY charges authorized by this section shall be IN~~
14 **SUBSECTION (1) AND ASSESSED TO A BORROWER ARE** in addition to
15 interest authorized by law and are not a part of the interest
16 collected or agreed to be paid on the secondary mortgage loan
17 within the meaning of the law of this state that limits the rate of
18 interest ~~which THAT~~ may be exacted in a transaction. ~~The charges~~
19 ~~shall be paid only once by the borrower to the A~~ licensee or
20 registrant **SHALL NOT REQUIRE A BORROWER TO PAY ANY OF THE CHARGES**
21 **AUTHORIZED IN SUBSECTION (1) MORE THAN 1 TIME IN ANY TRANSACTION.**

22 (3) **A LICENSEE OR REGISTRANT MAY CHARGE A REASONABLE FEE PER**
23 **PAYMENT IF A BORROWER MAKES A PAYMENT BY AUTHORIZING A LICENSEE OR**
24 **REGISTRANT VERBALLY OR IN WRITING TO EXECUTE A DEBIT OR OTHERWISE**
25 **PROCESS A PAYMENT, THROUGH AUTOMATED CLEARING PROCEDURES, DRAWN ON**
26 **THE BORROWER'S DEPOSIT ACCOUNT. THIS SUBSECTION DOES NOT PERMIT THE**
27 **ASSESSMENT OF A FEE TO A BORROWER WHO AT THE TIME OF CONSUMMATION**

1 OF THE LOAN AUTHORIZES THE LICENSEE OR REGISTRANT TO EFFECT
2 PERIODIC INSTALLMENT PAYMENTS BY WAY OF ELECTRONIC AUTOMATED
3 CLEARING PROCEDURES DRAWN ON THE BORROWER'S DEPOSIT ACCOUNT.

4 (4) ~~(3)~~—Any insurance sold by a licensee or registrant shall
5 be in accordance with the insurance code of 1956, 1956 PA 218, MCL
6 500.100 to 500.8302, or the credit insurance act, 1958 PA 173 MCL
7 500.601 to 500.624.

8 (5) ~~(4)~~—If a licensee or registrant requires a borrower to
9 purchase hazard insurance, the licensee or registrant shall not
10 require the borrower to purchase the insurance through a particular
11 agency or agent or from a particular insurer.

12 (6) ~~(5)~~—This section does not prohibit a licensee or
13 registrant from imposing the charges that are permitted by any
14 federal lending program designed to promote the making of secondary
15 mortgage loans.