

Act No. 141
Public Acts of 1994
Approved by the Governor
May 26, 1994
Filed with the Secretary of State
May 27, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Reps Middaugh Alley Gnodtke Kaza Randall and Rhead

ENROLLED HOUSE BILL No. 5314

AN ACT to amend section 22 of Act No 125 of the Public Acts of 1981 entitled as amended An act to define and regulate secondary mortgage loans and other unsecured loans to prescribe powers and duties of the financial institutions bureau and certain state agencies to provide for the establishment of a financial institutions bureau operations fund to provide for the promulgation of rules and to provide for civil fines and penalties being section 493 72 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 Section 22 of Act No 125 of the Public Acts of 1981 being section 493 72 of the Michigan Compiled Laws is amended to read as follows

Sec 22 (1) Other charges and fees shall not be made directly or indirectly in connection with the making of a secondary mortgage loan except for the following which may be included in the principal of the loan

(a) Reasonable fees or premiums that are the actual expenses incurred by the licensee for title insurance abstract of title or title examination

(b) Reasonable fees that are the actual expenses incurred by the licensee for an appraisal

(c) Fees and charges prescribed by law that are paid to a public official for determining the existence of or for perfecting releasing or satisfying any security related to the loan

(d) Charges for credit life insurance or another form of decreasing term life insurance offered by the licensee with purchase only at the option of the borrower

(e) A processing fee which is nonrefundable of not more than 2% of the gross amount of the loan

(f) A fee for a late payment if the fee does not exceed the greater of \$5 00 or 5% of the minimum payment due that is received by the licensee 10 or more days after the due date

(g) A reasonable annual fee for the privilege of receiving open end credit from the licensee As used in this subdivision open end credit means credit that is extended under a plan in which both of the following apply

(i) The licensee 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

(2) Upon request a licensee shall provide to a borrower or potential borrower a good faith estimate of the total of all charges permitted under subsection (1) and state the interest rate at which secondary mortgage loans are being made at the time of the request A licensee shall indicate that the charges and rates quoted are estimates A good faith

estimate and interest rate quote provided pursuant to this subsection shall not be construed as a commitment from the licensee to make a loan or to make a loan at a particular price

(3) At or prior to the closing of the loan the lender shall provide an itemized list of the actual charges permitted by subsection (1) that the borrower has paid or is obligated to pay

(4) The borrower is not required to pay directly or indirectly a commission finder's fee or points for the obtaining procuring or placing of a secondary mortgage loan Commissions finder's fees or points if any shall be paid by the licensee and only to licensed real estate brokers attorneys at law of this state or licensees An agreement for the payment of a commission finder's fee or point to be enforceable in the courts of this state shall be in writing signed by the licensee

(5) Charges shall not be collected for life insurance on a loan made under this act unless a borrower has voluntarily executed a written authorization on a form approved by the commissioner The authorization form shall be separate from other loan documents and shall clearly set forth all of the following

(a) That the insurance is not required in order to obtain the loan

(b) The cost of the life insurance premium over the life of the loan and the rate of interest that will be charged on the life insurance premium as part of the principal

(6) Within 5 days after making a loan under this act a licensee shall mail to each borrower who has authorized the purchase of life insurance a cancellation form approved by the commissioner The form shall clearly set forth in plain language the right of a person to cancel the life insurance coverage how to cancel the insurance and that the principal of the loan will be reduced by the amount of the unearned portion of the insurance premium if the insurance is canceled The cancellation form shall be accompanied by an envelope addressed to the licensee

(7) Life insurance coverage shall be canceled if the licensee receives a cancellation form signed by the borrower within 20 days after the date the loan was made The principal balance of the loan shall be reduced by the amount of the life insurance premium financed

(8) Life insurance coverage shall be canceled at any time after the expiration of the 20 day period specified in subsection (7) if the licensee receives written notice from the borrower Upon receipt of a cancellation request including the policy or certificate of insurance the lender shall reduce the principal balance of the loan by that portion of the life insurance premium that is unearned determined on an actuarial basis as of the day the request for cancellation was received Failure to return the policy or certificate of insurance does not negate the cancellation

(9) Credit life insurance or other form of decreasing term life insurance shall be sold by a licensee in accordance with the insurance code of 1956 Act No 218 of the Public Acts of 1956 as amended being sections 500 100 to 500 8302 of the Michigan Compiled Laws or the credit insurance act Act No 173 of the Public Acts of 1958 being sections 550 601 to 550 624 of the Michigan Compiled Laws

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor