

SENATE BILL No. 777

October 23, 2001, Introduced by Senator STEIL 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 sections 1a, 2, 4, 11, and 22 (MCL 445.1651a, 445.1652, 445.1654, 445.1661, and 445.1672), sections 1a, 2, 4, and 22 as amended by 1996 PA 210, and by adding sections 18a, 18b, 18c, 18d, and 18e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1a. As used in this act, unless the context requires
2 otherwise:

3 (a) "Affiliate" means a person or group of persons that
4 directly or indirectly through 1 or more intermediaries controls,
5 is controlled by, or is under common control with another person
6 and engaged in a business or transaction regulated by this act.

7 (b) "Commissioner" means the commissioner of the ~~financial~~
8 ~~institutions bureau~~ OFFICE OF FINANCIAL AND INSURANCE SERVICES

1 of the department of ~~commerce~~ CONSUMER AND INDUSTRY SERVICES or
2 his or her authorized agent.

3 (c) "Construction loan" means a mortgage loan for the pur-
4 pose of constructing a 1-to-4 family dwelling, which loan is
5 approved and closed ~~prior to~~ BEFORE completion of the construc-
6 tion of the improvement on the real property.

7 (D) "CONTROL PERSON" MEANS A DIRECTOR OR EXECUTIVE OFFICER
8 OF A LICENSEE OR A PERSON WHO HAS THE AUTHORITY TO PARTICIPATE IN
9 THE DIRECTION, DIRECTLY OR INDIRECTLY THROUGH 1 OR MORE OTHER
10 PERSONS, OF THE MANAGEMENT OR POLICIES OF A LICENSEE OR
11 REGISTRANT.

12 (E) ~~(d)~~ "Depository financial institution" means a state
13 or nationally chartered bank, ~~or~~ a state or federally chartered
14 savings and loan association, ~~or~~ savings bank, or ~~a state or~~
15 ~~federally chartered~~ credit union, or an entity of the federally
16 chartered farm credit system.

17 (F) "EXCLUSIVE BROKER" MEANS A PERSON THAT BROKERS MORTGAGE
18 LOANS SOLELY TO 1 LICENSEE OR REGISTRANT, IS COMPENSATED SOLELY
19 BY THAT LICENSEE OR REGISTRANT, AND IS INDEMNIFIED BY THE
20 LICENSEE OR REGISTRANT AS PROVIDED IN SECTION 4. THE ACTIONS OR
21 PRACTICES OF AN EXCLUSIVE BROKER IN BROKERING A MORTGAGE LOAN ARE
22 THE ACTIONS OR PRACTICES OF THE LICENSEE OR REGISTRANT.

23 (G) "EXECUTIVE OFFICER" MEANS AN OFFICER, MEMBER, OR PARTNER
24 OF A LICENSEE OR REGISTRANT, INCLUDING CHIEF EXECUTIVE OFFICER,
25 PRESIDENT, VICE PRESIDENT, CHIEF FINANCIAL OFFICER, CONTROLLER,
26 COMPLIANCE OFFICER, OR ANY OTHER SIMILAR POSITION.

1 (H) "FINANCIAL LICENSING ACT" MEANS ANY OF THE ACTS LISTED
2 IN SECTION 2 OF THE CONSUMER FINANCIAL SERVICES ACT, 1988 PA 161,
3 MCL 487.2052.

4 (I) ~~(e)~~ "Firm commitment" means an underwriting in which a
5 broker-dealer commits to buy the mortgage loan or the entire
6 issue of securities based upon or backed by 1 or more mortgage
7 loans and assumes all financial responsibility for any unsold
8 securities.

9 (J) ~~(f)~~ "Individual investor" means a person residing in
10 this state or having its principal place of business in this
11 state, other than a bank, savings bank, savings and loan associa-
12 tion, credit union, trust company, insurance company, investment
13 company as defined in the investment company act of 1940, TITLE I
14 OF chapter 686, 54 STAT. 789, 15 U.S.C. 80a-1 to 80a-3 AND 80a-4
15 TO 80a-64, pension or profit sharing plan, the assets of which
16 are managed by a bank or trust company or other institutional
17 manager, financial institution, institutional manager,
18 broker-dealer that is a member of the New York stock exchange or
19 registered under the uniform securities act, ~~Act No. 265 of the~~
20 ~~Public Acts of 1964, being sections 451.501 to 451.818 of the~~
21 ~~Michigan Compiled Laws~~ 1964 PA 265, MCL 451.501 TO 451.818, the
22 federal national mortgage association, the government national
23 mortgage association, the federal home loan mortgage corporation,
24 or a mortgage lender or mortgage servicer.

25 (K) ~~(g)~~ "License" means a license issued under this act.

26 (L) ~~(h)~~ "Licensee" means a person licensed or required to
27 be licensed under this act.

1 (M) ~~(i)~~ "Mortgage broker" means a person who, directly or
2 indirectly, does 1 or both of the following:

3 (i) Serves or offers to serve as an agent for a person in an
4 attempt to obtain a mortgage loan.

5 (ii) Serves or offers to serve as an agent for a person who
6 makes or offers to make mortgage loans.

7 (N) ~~(j)~~ "Mortgage lender" means a person who, directly or
8 indirectly, makes or offers to make mortgage loans.

9 (O) ~~(k)~~ "Mortgage loan" means a loan secured by a first
10 mortgage on real property located in this state and used, or
11 improved to be used, as a dwelling and designed for occupancy by
12 4 or fewer families or a land contract covering real property
13 located in this state used, or improved to be used, as a dwelling
14 and designed for occupancy by 4 or fewer families. A mortgage
15 loan does not include a home improvement installment contract
16 under the home improvement finance act, ~~Act No. 332 of the~~
17 ~~Public Acts of 1965, being sections 445.1101 to 445.1431 of the~~
18 ~~Michigan Compiled Laws~~ 1965 PA 332, MCL 445.1101 TO 445.1431.

19 (P) ~~(l)~~ "Mortgage servicer" means a person who, directly
20 or indirectly, services or offers to service mortgage loans.

21 (Q) ~~(m)~~ "Person" means an individual, corporation, part-
22 nership, association, governmental entity, or any other legal
23 entity.

24 (R) ~~(n)~~ "Real estate broker" means a broker or associate
25 broker licensed under article 25 of the occupational code, ~~Act~~
26 ~~No. 299 of the Public Acts of 1980, being sections 339.2501 to~~

1 ~~339.2518 of the Michigan Compiled Laws 1980 PA 299, MCL 339.2501~~
2 TO 339.2518.

3 (S) ~~(o)~~ "Real estate salesperson" means a salesperson
4 licensed under article 25 of the occupational code, ~~Act No. 299~~
5 ~~of the Public Acts of 1980, being sections 339.2501 to 339.2518~~
6 ~~of the Michigan Compiled Laws 1980 PA 299, MCL 339.2501 TO~~
7 339.2518.

8 (T) ~~(p)~~ "Register" means filing a notice with the commis-
9 sioner on a form prescribed by the commissioner that notifies the
10 commissioner of the intent to engage in the activities of a mort-
11 gage broker, mortgage lender, or mortgage servicer in this state
12 and the payment of any fees required under this act, along with
13 the other documents, proofs, and fees required by the
14 commissioner.

15 (U) ~~(q)~~ "Registrant" means a person registered or required
16 to be registered under this act.

17 (V) ~~(r)~~ "Service" means the collection or remittance, or
18 the right or obligation to collect or remit, for a lender, noteo-
19 wner, noteholder, mortgage servicer, or the licensee's or
20 registrant's own account of 4 or more installment payments of the
21 principal, interest, or an amount placed in escrow under a mort-
22 gage loan, mortgage servicing agreement, or an agreement with the
23 mortgagor.

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

1 (a) The person is solely performing services as an employee
2 of only 1 mortgage broker, mortgage lender, or mortgage
3 servicer.

4 (b) The person is exempted from the act under section 25.

5 (c) The person is licensed as a class I licensee under the
6 consumer financial services act, ~~Act No. 161 of the Public Acts~~
7 ~~of 1988, being sections 487.2051 to 487.2072 of the Michigan~~
8 ~~Compiled Laws~~ 1988 PA 161, MCL 487.2051 TO 487.2072.

9 (D) THE PERSON IS SOLELY PERFORMING SERVICES AS AN EXCLUSIVE
10 BROKER OF ONLY 1 LICENSEE OR REGISTRANT.

11 (2) No later than ~~90 days after the effective date of the~~
12 ~~amendatory act that added this subsection~~ AUGUST 20, 1996, a
13 person that is licensed to make regulatory loans under the regu-
14 latory loan act of 1963, ~~Act No. 21 of the Public Acts of 1939,~~
15 ~~being sections 493.1 to 493.26 of the Michigan Compiled Laws~~
16 1939 PA 21, MCL 493.1 TO 493.25, or is licensed to make secondary
17 mortgage loans under ~~Act No. 125 of the Public Acts of 1981,~~
18 ~~being sections 493.51 to 493.81 of the Michigan Compiled Laws~~
19 THE SECONDARY MORTGAGE LOAN ACT, 1981 PA 125, MCL 493.51 TO
20 493.81, and is registered with the commissioner shall file with
21 the commissioner an application for a license under section 3(1)
22 or shall discontinue all activities ~~which~~ THAT are subject to
23 this act.

24 (3) No later than ~~90 days after the effective date of the~~
25 ~~amendatory act that added this subsection~~ AUGUST 20, 1996, a
26 mortgage broker, mortgage lender, or mortgage servicer that was
27 exempt from regulation under this act and is a subsidiary or

1 affiliate of a depository financial institution or a subsidiary
2 or affiliate of a depository financial institution holding com-
3 pany, which depository financial institution does not maintain a
4 main office or branch office in this state, shall register under
5 section 6 or shall discontinue all activities ~~which~~ THAT are
6 subject to this act.

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

19 Sec. 4. (1) Except as otherwise provided in this section,
20 at the time of filing an application for a license or renewal of
21 a license, the applicant shall do all of the following:

22 (a) Provide proof of financial responsibility in the follow-
23 ing amounts:

24 (i) \$25,000.00 for an applicant who acts as a mortgage
25 broker and who receives funds from a prospective borrower before
26 the closing of the mortgage loan or who acts as a mortgage
27 lender.

1 (ii) \$125,000.00 for an applicant who acts as a mortgage
2 servicer.

3 (b) Provide proof of financial responsibility by 1 of the
4 following:

5 (i) A corporate surety bond payable to the commissioner,
6 executed by a corporate surety approved by the commissioner,
7 which expires no earlier than the EXPIRATION date OF the license.
8 ~~shall expire.~~

9 (ii) An irrevocable letter of credit upon which the appli-
10 cant is the obligor, which expires no earlier than the EXPIRATION
11 date OF the license, ~~shall expire,~~ issued by a bank, savings
12 bank, savings and loan association, or credit union the deposits
13 of which are insured by an agency of the federal government, and
14 the terms of ~~which~~ THE letter of credit are approved by the
15 commissioner.

16 (2) A LICENSEE OR REGISTRANT THAT CONDUCTS BUSINESS THROUGH
17 1 OR MORE EXCLUSIVE BROKERS SHALL ENTER INTO AN INDEMNIFICATION
18 AGREEMENT, SUBJECT TO THE APPROVAL OF THE COMMISSIONER, TO PRO-
19 TECT BORROWERS FROM MONETARY DAMAGES THAT MAY RESULT FROM DOING
20 BUSINESS WITH THE EXCLUSIVE BROKERS THROUGH WHICH THE LICENSEE OR
21 REGISTRANT CONDUCTS BUSINESS. THE INDEMNIFICATION SHALL BE PRO-
22 VIDED IN THE AMOUNT AND FORM REQUIRED BY SUBSECTION (1).

23 (3) ~~(2)~~ The bond or letter of credit deposited under
24 subsection (1) shall be conditioned upon the conduct of the busi-
25 ness in accordance with ~~the provisions of~~ this act and all
26 rules promulgated by the commissioner, and the payment of all
27 money that becomes due.

1 (4) ~~(3)~~ In place of depositing a bond or letter of credit,
2 an applicant may pay a nonrefundable administrative fee estab-
3 lished by the commissioner not to exceed \$100.00 and furnish 1 of
4 the following as proof of financial responsibility:

5 (a) Deposit with the state treasurer, under terms prescribed
6 by the commissioner, obligations of the United States, or obliga-
7 tions ~~which~~ THAT are guaranteed fully as to principal and
8 interest by the United States, or any general obligations of any
9 state or any political subdivision of the United States, with a
10 maturity date of 3 years or less, in an amount equal to, or
11 greater than, the amount of the required bond. Interest earned
12 under obligations shall accrue to the account of the applicant.

13 (b) Deposit with the state treasurer, under terms prescribed
14 by the commissioner, a certificate of deposit of a federally
15 insured financial institution with a maturity date of 3 years or
16 less for an amount payable ~~which~~ THAT is equal to, or greater
17 than, the amount of the required bond and ~~which~~ THAT is not
18 available for withdrawal except by direct order of the
19 commissioner. Interest earned under the certificate shall accrue
20 to the account of the applicant.

21 (5) ~~(4)~~ Upon application as prescribed by the commission-
22 er, the commissioner may reduce, waive, or modify the require-
23 ments under this section for a mortgage servicer who services not
24 more than 300 mortgage loans and who does not collect money for
25 the purpose of paying taxes or insurance ~~pursuant to~~ UNDER the
26 mortgage loan.

1 (6) ~~(5)~~ The commissioner shall waive the requirements of
2 this section and section 5 upon application by a mortgage
3 servicer who is a licensed real estate broker or real estate
4 salesperson, services more than 75 land contracts, has a satis-
5 factory record of compliance with applicable state and federal
6 law, and does not engage in any other activity regulated by this
7 act.

8 Sec. 11. (1) The commissioner shall exercise general super-
9 vision and control over mortgage brokers, mortgage lenders, and
10 mortgage servicers doing business in this state.

11 (2) In addition to the other powers granted to the commis-
12 sioner by this act, the commissioner shall have ALL OF the fol-
13 lowing powers:

14 (a) To promulgate reasonable rules ~~pursuant to~~ UNDER the
15 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
16 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
17 ~~Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, as necessary to
18 implement and administer this act.

19 (b) To deny an application for a license.

20 (c) To conduct examinations and investigations of any person
21 as necessary for the efficient enforcement of this act and the
22 rules promulgated under this act.

23 (d) To advise the attorney general or the prosecuting attor-
24 ney of the county in which the business is conducted that the
25 commissioner believes a licensee, registrant, or person is vio-
26 lating this act. ~~, and the~~ THE attorney general or prosecuting
27 attorney ~~shall cause the~~ MAY TAKE appropriate legal action ~~to~~

1 ~~be taken~~ to enjoin the operation of the business or prosecute
2 violations of this act.

3 (e) To bring an action in the Ingham county circuit court in
4 the name and on behalf of ~~the~~ THIS state against the licensee,
5 registrant, or any other person who is participating in, or about
6 to participate in, any unsafe or injurious practice or act in
7 violation of this act or a rule promulgated under this act, to
8 enjoin the person from participating in or continuing ~~such~~ THE
9 practice or engaging in ~~such~~ THE act.

10 (f) To order a person to cease and desist from a violation
11 of this act or a rule promulgated under this act in accordance
12 with section 16.

13 (g) To suspend or revoke a license or registration in
14 accordance with section 29.

15 (h) To require that restitution be made in accordance with
16 section 29.

17 (i) To assess a civil fine in accordance with section 29.

18 (j) To censure a licensee or registrant.

19 (K) TO ISSUE AN ORDER TO PROHIBIT A PERSON FROM BEING
20 EMPLOYED BY, AN AGENT OF, OR CONTROL PERSON OF A LICENSEE OR REG-
21 ISTRANT AS PROVIDED UNDER SECTION 18A.

22 SEC. 18A. (1) IF IN THE OPINION OF THE COMMISSIONER A
23 PERSON HAS ENGAGED IN FRAUD, THE COMMISSIONER MAY SERVE UPON THAT
24 PERSON A WRITTEN NOTICE OF INTENTION TO PROHIBIT THAT PERSON FROM
25 BEING EMPLOYED BY, AN AGENT OF, OR CONTROL PERSON OF A LICENSEE
26 OR REGISTRANT UNDER THIS ACT OR A LICENSEE OR REGISTRANT UNDER A
27 FINANCIAL LICENSING ACT. FOR PURPOSES OF THIS SECTION, "FRAUD"

1 SHALL INCLUDE ACTIONABLE FRAUD, ACTUAL OR CONSTRUCTIVE FRAUD,
2 CRIMINAL FRAUD, EXTRINSIC OR INTRINSIC FRAUD, FRAUD IN THE EXECU-
3 TION, IN THE INDUCEMENT, IN FACT, OR IN LAW, OR ANY OTHER FORM OF
4 FRAUD.

5 (2) A NOTICE ISSUED UNDER SUBSECTION (1) SHALL CONTAIN A
6 STATEMENT OF THE FACTS SUPPORTING THE PROHIBITION AND, EXCEPT AS
7 PROVIDED UNDER SUBSECTION (7), SET A HEARING TO BE HELD NOT MORE
8 THAN 60 DAYS AFTER THE DATE OF THE NOTICE. IF THE PERSON DOES
9 NOT APPEAR AT THE HEARING, HE OR SHE IS CONSIDERED TO HAVE CON-
10 SENTED TO THE ISSUANCE OF AN ORDER IN ACCORDANCE WITH THE
11 NOTICE.

12 (3) IF AFTER A HEARING HELD UNDER SUBSECTION (2) THE COMMIS-
13 SIONER FINDS THAT ANY OF THE GROUNDS SPECIFIED IN THE NOTICE HAVE
14 BEEN ESTABLISHED, THE COMMISSIONER MAY ISSUE AN ORDER OF SUSPEN-
15 SION OR PROHIBITION FROM BEING A LICENSEE OR REGISTRANT OR FROM
16 BEING EMPLOYED BY, AN AGENT OF, OR CONTROL PERSON OF ANY LICENSEE
17 OR REGISTRANT UNDER THIS ACT OR A LICENSEE OR REGISTRANT UNDER A
18 FINANCIAL LICENSING ACT.

19 (4) AN ORDER ISSUED UNDER SUBSECTION (2) OR (3) IS EFFECTIVE
20 UPON SERVICE UPON THE PERSON. THE COMMISSIONER SHALL ALSO SERVE
21 A COPY OF THE ORDER UPON THE LICENSEE OR REGISTRANT OF WHICH THE
22 PERSON IS AN EMPLOYEE, AGENT, OR CONTROL PERSON. THE ORDER
23 REMAINS IN EFFECT UNTIL IT IS STAYED, MODIFIED, TERMINATED, OR
24 SET ASIDE BY THE COMMISSIONER OR A REVIEWING COURT.

25 (5) AFTER 5 YEARS FROM THE DATE OF AN ORDER ISSUED UNDER
26 SUBSECTION (2) OR (3), THE PERSON SUBJECT TO THE ORDER MAY APPLY
27 TO THE COMMISSIONER TO TERMINATE THE ORDER.

1 (6) IF THE COMMISSIONER CONSIDERS THAT A PERSON SERVED A
2 NOTICE UNDER SUBSECTION (1) POSES AN IMMINENT THREAT OF FINANCIAL
3 LOSS TO APPLICANTS FOR MORTGAGE LOANS, THE COMMISSIONER MAY SERVE
4 UPON THE PERSON AN ORDER OF SUSPENSION FROM BEING EMPLOYED BY, AN
5 AGENT OF, OR CONTROL PERSON OF ANY LICENSEE OR REGISTRANT. THE
6 SUSPENSION IS EFFECTIVE ON THE DATE THE ORDER IS ISSUED AND,
7 UNLESS STAYED BY A COURT, REMAINS IN EFFECT PENDING THE COMPLE-
8 TION OF A REVIEW AS PROVIDED UNDER THIS SECTION AND THE COMMIS-
9 SIONER HAS DISMISSED THE CHARGES SPECIFIED IN THE ORDER.

10 (7) UNLESS OTHERWISE AGREED TO BY THE COMMISSIONER AND THE
11 PERSON SERVED WITH AN ORDER ISSUED UNDER SUBSECTION (6), THE
12 HEARING REQUIRED UNDER SUBSECTION (2) TO REVIEW THE SUSPENSION
13 SHALL BE HELD NOT EARLIER THAN 5 DAYS OR LATER THAN 20 DAYS AFTER
14 THE DATE OF THE NOTICE.

15 (8) IF A PERSON IS CONVICTED OF A FELONY INVOLVING FRAUD,
16 DISHONESTY, OR BREACH OF TRUST, THE COMMISSIONER MAY ISSUE AN
17 ORDER SUSPENDING OR PROHIBITING THAT PERSON FROM BEING A LICENSEE
18 OR REGISTRANT AND FROM BEING EMPLOYED BY, AN AGENT OF, OR CONTROL
19 PERSON OF ANY LICENSEE OR REGISTRANT UNDER THIS ACT OR A LICENSEE
20 OR REGISTRANT UNDER A FINANCIAL LICENSING ACT. AFTER 5 YEARS
21 FROM THE DATE OF THE ORDER, THE PERSON SUBJECT TO THE ORDER MAY
22 APPLY TO THE COMMISSIONER TO TERMINATE THE ORDER.

23 (9) THE COMMISSIONER SHALL MAIL A COPY OF ANY NOTICE OR
24 ORDER ISSUED UNDER THIS SECTION TO THE LICENSEE OR REGISTRANT OF
25 WHICH THE PERSON SUBJECT TO THE NOTICE OR ORDER IS AN EMPLOYEE,
26 AGENT, OR CONTROL PERSON.

1 SEC. 18B. (1) A HEARING UNDER SECTION 16 OR 18A SHALL BE
2 CONDUCTED UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969
3 PA 306, MCL 24.201 TO 24.328. WITHIN 30 DAYS AFTER THE COMMIS-
4 SIONER HAS NOTIFIED THE PARTIES THAT THE CASE HAS BEEN SUBMITTED
5 TO HIM OR HER FOR FINAL DECISION, THE COMMISSIONER SHALL RENDER A
6 DECISION THAT SHALL INCLUDE FINDINGS OF FACT SUPPORTING THE DECI-
7 SION AND SERVE UPON EACH PARTY TO THE PROCEEDING A COPY OF THE
8 DECISION AND AN ORDER CONSISTENT WITH THE DECISION.

9 (2) EXCEPT FOR A CONSENT ORDER, A PARTY TO THE PROCEEDING,
10 OR A PERSON AFFECTED BY AN ORDER ISSUED UNDER SECTION 16 OR 18A
11 MAY OBTAIN A JUDICIAL REVIEW OF THE ORDER. A CONSENT ORDER MAY
12 BE REVIEWED AS PROVIDED UNDER THE ADMINISTRATIVE PROCEDURES ACT
13 OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. EXCEPT FOR AN ORDER
14 UNDER JUDICIAL REVIEW, THE COMMISSIONER MAY TERMINATE OR SET
15 ASIDE ANY ORDER. THE COMMISSIONER MAY TERMINATE OR SET ASIDE AN
16 ORDER UNDER JUDICIAL REVIEW WITH THE PERMISSION OF THE COURT.

17 (3) UNLESS ORDERED BY THE COURT, THE COMMENCEMENT OF PRO-
18 CEEDINGS FOR JUDICIAL REVIEW UNDER SUBSECTION (2) DOES NOT STAY
19 THE COMMISSIONER'S ORDER.

20 SEC. 18C. THE COMMISSIONER MAY APPLY TO THE CIRCUIT COURT
21 OF INGHAM COUNTY FOR THE ENFORCEMENT OF ANY OUTSTANDING ORDER
22 ISSUED UNDER SECTION 15, 16, OR 18A.

23 SEC. 18D. ANY CURRENT OR FORMER EXECUTIVE OFFICER, DIREC-
24 TOR, AGENT, OR CONTROL PERSON WHO VIOLATES A FINAL ORDER ISSUED
25 UNDER SECTION 18A IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE
26 OF NOT MORE THAN \$5,000.00 OR IMPRISONMENT FOR NOT MORE THAN 1
27 YEAR, OR BOTH.

1 SEC. 18E. A CONTROL PERSON WHO IS SUBJECT TO AN ORDER
2 ISSUED UNDER SECTION 18A AND WHO MEETS ALL OF THE FOLLOWING
3 REQUIREMENTS IS NOT IN VIOLATION OF THE ORDER:

4 (A) THE CONTROL PERSON SHALL NOT IN ANY MANNER, DIRECTLY OR
5 INDIRECTLY, PARTICIPATE IN THE CONTROL OF A LICENSEE OR REGIS-
6 TRANT AFTER THE DATE THE ORDER IS ISSUED.

7 (B) THE CONTROL PERSON SHALL WITHIN 6 MONTHS AFTER THE DATE
8 THE ORDER IS FINAL TRANSFER ANY INTEREST THE CONTROL PERSON OWNS
9 IN A LICENSEE OR REGISTRANT TO AN UNRELATED THIRD PARTY.

10 Sec. 22. It ~~shall be~~ IS a violation of this act ~~if~~ FOR
11 a licensee or registrant TO DO ANY OF THE FOLLOWING:

12 (a) ~~Does not~~ FAIL TO conduct the business in accordance
13 with law, ~~or has violated any other provision of~~ this act, or a
14 rule promulgated or order issued under this act.

15 (b) ~~Engages~~ ENGAGE in fraud, deceit, or material misrepre-
16 sentation in connection with any transaction governed by this
17 act.

18 (c) Intentionally or due to gross or wanton negligence,
19 repeatedly ~~fails~~ FAIL to provide borrowers material disclosures
20 of information as required by ~~state or federal~~ law.

21 (d) ~~Suppresses or withholds~~ SUPPRESS OR WITHHOLD from the
22 commissioner any information that the licensee or registrant pos-
23 sesses and that, if submitted, would have made the licensee or
24 registrant ineligible for licensing or registration under this
25 act or would have warranted the commissioner's denial of a
26 license application or refusal to accept a registration.

1 (e) ~~Violates any provision of Act No. 125 of the Public~~
2 ~~Acts of 1966, being sections 565.161 to 565.163 of the Michigan~~
3 ~~Compiled Laws~~ FAIL TO COMPLY WITH 1966 PA 125, MCL 565.161 TO
4 565.164, regulating the handling of mortgage escrow accounts by
5 mortgagees.

6 (f) Until proper disbursement is made, ~~fails~~ FAIL to place
7 in a trust or escrow account held by a federally insured deposi-
8 tory financial institution in a manner approved by the commis-
9 sioner any money, funds, deposits, checks, drafts, or other nego-
10 tiable instruments received by ~~a mortgage broker, mortgage~~
11 ~~lender, or mortgage servicer that is the portion of a payment on~~
12 ~~a mortgage loan that the person~~ THE LICENSEE THAT THE BORROWER
13 is obligated to pay to a third party, including amounts paid to
14 the holder of the mortgage loan, amounts for property taxes and
15 insurance premiums, or amounts paid under an agreement that
16 requires if the mortgage loan is not closed the amounts paid
17 shall be refunded to the prospective borrower or if the mortgage
18 loan is closed the amounts paid shall be applied to fees and
19 costs incurred at the time the mortgage loan is closed. Fees and
20 costs include, but are not limited to, title insurance premiums
21 and recording fees. Fees and costs do not include amounts paid
22 to cover costs incurred to process the mortgage loan application,
23 to obtain an appraisal, or to receive a credit report.

24 (g) ~~Refuses~~ REFUSE to permit an examination or investiga-
25 tion by the commissioner of the books and affairs of the licensee
26 or registrant, or has refused or failed, within a reasonable

1 time, to furnish any information or make any report that may be
2 required by the commissioner ~~pursuant to~~ UNDER this act.

3 (h) ~~Is~~ TO BE convicted of a felony, or any misdemeanor of
4 which an essential element is fraud.

5 (i) ~~Refuses or fails~~ REFUSE OR FAIL to pay, within a rea-
6 sonable time, those expenses assessed to the licensee or regis-
7 trant ~~pursuant to~~ UNDER this act.

8 (j) ~~Fails~~ FAIL to make restitution after having been
9 ordered to do so by the commissioner or an administrative agency,
10 or ~~fails~~ FAIL to make restitution or pay damages to persons
11 injured by the licensee's or registrant's business transactions
12 after having been ordered to do so by a court.

13 (k) ~~Fails~~ FAIL to make a mortgage loan ~~pursuant to, and~~
14 in accordance with ~~,~~ a written commitment to make a mortgage
15 loan issued to, and accepted by, a person when the person has
16 timely and completely satisfied all the conditions of the commit-
17 ment ~~prior to~~ BEFORE the expiration of the commitment.

18 (l) ~~Requires~~ REQUIRE a prospective borrower to deal exclu-
19 sively with the licensee or registrant in regard to a mortgage
20 loan application.

21 (m) ~~Takes~~ TAKE a security interest in real property before
22 closing the mortgage loan to secure payment of fees assessed in
23 connection with a mortgage loan application.

24 (N) EXCEPT AS PROVIDED UNDER SECTION 18E, KNOWINGLY PERMIT A
25 PERSON TO VIOLATE AN ORDER THAT HAS BEEN ISSUED UNDER THIS ACT OR
26 ANY OTHER FINANCIAL LICENSING ACT THAT PROHIBITS THAT PERSON FROM

1 BEING EMPLOYED BY, AN AGENT OF, OR A CONTROL PERSON OF THE
2 LICENSEE OR REGISTRANT.