

SENATE BILL No. 939

November 29, 2007, Introduced by Senator RICHARDVILLE and referred to the Committee on Finance.

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 2005 PA 113.

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 performing services as an employee of
6 only 1 mortgage broker, mortgage lender, or mortgage servicer.

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

8 (c) The person is licensed as a class I licensee under the
9 consumer financial services act, 1988 PA 161, MCL 487.2051 to

1 487.2072.

2 (d) The individual is an employee of a professional employer
3 organization, as that term is defined in section 4 ~~of the single~~
4 ~~business tax act, 1975 PA 228, MCL 208.4-113 OF THE MICHIGAN~~
5 **BUSINESS TAX ACT, 2007 PA 36, MCL 208.1113**, solely acting as a
6 residential mortgage originator of only 1 mortgage broker or
7 mortgage lender. The mortgage broker or mortgage lender shall do
8 all of the following:

9 (i) Direct and control the activities of the individual under
10 this act.

11 (ii) Be responsible for all activities of the individual and
12 assume responsibility for the individual's actions that are covered
13 by the proof of financial responsibility deposit required under
14 section 4.

15 (2) A person that is licensed to make regulatory loans under
16 the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, or is
17 licensed to make secondary mortgage loans under the secondary
18 mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is
19 registered with the commissioner shall file with the commissioner
20 an application for a license under section 3(1) or shall
21 discontinue all activities that are subject to this act.

22 (3) Unless a residential mortgage originator is otherwise
23 licensed or registered under this act, a residential mortgage
24 originator shall not receive directly or indirectly any
25 compensation, commission, fee, points, or other remuneration or
26 benefits from a mortgage broker, mortgage lender, or mortgage
27 servicer other than the employer of the residential mortgage

1 originator.

2 (4) Unless a residential mortgage originator is otherwise
3 licensed or registered under this act, a mortgage broker, mortgage
4 lender, or mortgage servicer shall not pay directly or indirectly
5 any compensation, commission, fee, points, or other remuneration or
6 benefits to a residential mortgage originator other than an
7 employee of the mortgage broker, mortgage lender, or mortgage
8 servicer. As used in this subsection and subsection (3),
9 "residential mortgage originator" means a person who assists
10 another person in obtaining a mortgage loan.

11 (5) A mortgage broker, mortgage lender, or mortgage servicer
12 that was exempt from regulation under this act and is a subsidiary
13 or affiliate of a depository financial institution or a depository
14 financial institution holding company that does not maintain a main
15 office or branch office in this state, shall register under section
16 6 or shall discontinue all activities subject to this act.

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

1 assumed name.