

SENATE BILL No. 290

February 28, 2007, Introduced by Senators RICHARDVILLE, HARDIMAN, HUNTER, CHERRY, GLEASON, STAMAS, ALLEN, THOMAS, OLSHOVE, KUIPERS, McMANUS, CASSIS, VAN WOERKOM, GARCIA and BARCIA 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 2 (MCL 493.52), as amended by 1997 PA 91.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) ~~Except for a person licensed under the consumer~~
2 ~~financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, a~~
3 ~~depository financial institution, or an exclusive broker, a~~ **A**
4 person shall not act as a broker, lender, or servicer without first
5 obtaining a license or registration as provided by this act.

6 ~~(2) A person is acting as a broker if the person acts as a~~
7 ~~broker in connection with 1 or more secondary mortgage loans.~~

8 ~~(3) A person is acting as a lender if the person~~ **REGISTERING**
9 **UNDER THIS ACT, UNLESS 1 OR MORE OF THE FOLLOWING APPLY:**

1 (A) THE PERSON IS SOLELY PERFORMING SERVICES AS AN EMPLOYEE OF
2 ONLY 1 BROKER, LENDER, OR SERVICER.

3 (B) THE PERSON IS LICENSED UNDER THE CONSUMER FINANCIAL
4 SERVICES ACT, 1988 PA 161, MCL 487.2051 TO 487.2072.

5 (C) THE PERSON ACTS AS A LENDER BUT makes or negotiates ~~more~~
6 ~~than~~ 2 OR FEWER secondary mortgage loans in a calendar year.

7 (D) ~~(4) A person is acting as a servicer if the~~ THE person
8 ACTS AS A SERVICER BUT services ~~more than~~ 10 OR FEWER secondary
9 mortgage loans in a calendar year.

10 (E) THE PERSON IS AN INDIVIDUAL AND AN EMPLOYEE OF A
11 PROFESSIONAL EMPLOYER ORGANIZATION, AS THAT TERM IS DEFINED IN
12 SECTION 4 OF THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.4,
13 SOLELY ACTING AS A SECONDARY MORTGAGE LOAN ORIGINATOR OF ONLY 1
14 BROKER OR LENDER. THE BROKER OR LENDER SHALL DO ALL OF THE
15 FOLLOWING:

16 (i) DIRECT AND CONTROL THE ACTIVITIES OF THE INDIVIDUAL UNDER
17 THIS ACT.

18 (ii) BE RESPONSIBLE FOR ALL ACTIVITIES OF THE INDIVIDUAL AND
19 ASSUME RESPONSIBILITY FOR THE INDIVIDUAL'S ACTIONS THAT ARE COVERED
20 BY THE PROOF OF FINANCIAL RESPONSIBILITY DEPOSIT REQUIRED UNDER
21 SECTION 6.

22 (2) ~~(5) Within 90 days after the effective date of the~~
23 ~~amendatory act that added this subsection~~ BY OCTOBER 31, 1997, a
24 servicer that was exempt from regulation under this act shall
25 either file with the commissioner an application for a license or
26 registration under section 3 or discontinue all activities subject
27 to this act.

1 ~~—— (6) A natural person who is an employee of only 1 licensee or~~
2 ~~registrant is not required to obtain a license or be registered~~
3 ~~under this act.~~

4 (3) ~~(7)~~—Except for a state or nationally chartered bank,
5 savings bank, or an affiliate of a bank or savings bank, a person
6 subject to this act shall not include in its name or assumed name
7 the words "bank", "banker", "banc", "bankcorp", "bancorp", or any
8 other words or phrases that would imply that the person is a bank,
9 is engaged in the business of banking, or is affiliated with a bank
10 or savings bank. It is not a violation of this subsection for a
11 licensee to use the term "mortgage banker" or "mortgage banking" in
12 its name or assumed name.

13 (4) ~~(8)~~—A person subject to this act whose name or assumed
14 name on January 1, 1997 contained a word prohibited by subsection
15 ~~(7)~~—(3) may continue to use that name or assumed name.