

# HOUSE BILL No. 6056

September 16, 1998, Introduced by Rep. Alley and referred to the Committee on Commerce.

A bill to amend 1987 PA 173, entitled "Mortgage brokers, lenders, and servicers licensing act," by amending section 22 (MCL 445.1672), as amended by 1996 PA 210.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 22. It shall be a violation of this act if a licensee  
2 or registrant:

3       (a) Does not conduct the business in accordance with law, or  
4 has violated any other provision of this act, or a rule promul-  
5 gated or order issued under this act.

6       (b) Engages in fraud, deceit, or material misrepresentation  
7 in connection with any transaction governed by this act.

8       (c) Intentionally or due to gross or wanton negligence,  
9 repeatedly fails to provide borrowers material disclosures of  
10 information as required by state or federal law.

1 (d) Suppresses or withholds from the commissioner any  
2 information that the licensee or registrant possesses and that,  
3 if submitted, would have made the licensee or registrant ineligi-  
4 ble for licensing or registration under this act or would have  
5 warranted the commissioner's denial of a license application or  
6 refusal to accept a registration.

7 (e) Violates any provision of ~~Act No. 125 of the Public~~  
8 ~~Acts of 1966, being sections 565.161 to 565.163 of the Michigan~~  
9 ~~Compiled Laws~~ 1966 PA 125, MCL 565.161 TO 565.164, regulating  
10 the handling of mortgage escrow accounts by mortgagees.

11 (f) Until proper disbursement is made, fails to place in a  
12 trust or escrow account held by a federally insured depository  
13 financial institution in a manner approved by the commissioner  
14 any money, funds, deposits, checks, drafts, or other negotiable  
15 instruments received by a mortgage broker, mortgage lender, or  
16 mortgage servicer that is the portion of a payment on a mortgage  
17 loan that the person is obligated to pay to a third party,  
18 including amounts paid to the holder of the mortgage loan,  
19 amounts for property taxes and insurance premiums, or amounts  
20 paid under an agreement that requires if the mortgage loan is not  
21 closed the amounts paid shall be refunded to the prospective bor-  
22 rower or if the mortgage loan is closed the amounts paid shall be  
23 applied to fees and costs incurred at the time the mortgage loan  
24 is closed. Fees and costs include, but are not limited to, title  
25 insurance premiums and recording fees. Fees and costs do not  
26 include amounts paid to cover costs incurred to process the

1 mortgage loan application, to obtain an appraisal, or to receive  
2 a credit report.

3 (g) Refuses to permit an examination or investigation by the  
4 commissioner of the books and affairs of the licensee or regis-  
5 trant, or has refused or failed, within a reasonable time, to  
6 furnish any information or make any report that may be required  
7 by the commissioner pursuant to this act.

8 (h) Is convicted of a felony, or any misdemeanor of which an  
9 essential element is fraud.

10 (i) Refuses or fails to pay, within a reasonable time, those  
11 expenses assessed to the licensee or registrant pursuant to this  
12 act.

13 (j) Fails to make restitution after having been ordered to  
14 do so by the commissioner or an administrative agency, or fails  
15 to make restitution or pay damages to persons injured by the  
16 licensee's or registrant's business transactions after having  
17 been ordered to do so by a court.

18 (k) Fails to make a mortgage loan pursuant to, and in  
19 accordance with, a written commitment to make a mortgage loan  
20 issued to, and accepted by, a person when the person has timely  
21 and completely satisfied all the conditions of the commitment  
22 prior to the expiration of the commitment.

23 (l) Requires a prospective borrower to deal exclusively with  
24 the licensee or registrant in regard to a mortgage loan  
25 application.

1 (m) Takes a security interest in real property before  
2 closing the mortgage loan to secure payment of fees assessed in  
3 connection with a mortgage loan application.

4 (N) PROVIDES AN INDIVIDUAL WITH A EITHER OF THE FOLLOWING:

5 (i) AN UNSOLICITED BLANK CHECK THAT WOULD ENABLE THE INDI-  
6 VIDUAL TO INCUR A NEW OR ADDED MORTGAGE DEBT BURDEN SOLELY BY  
7 IDENTIFYING A PAYEE AND ENDORSING THE CHECK.

8 (ii) AN UNSOLICITED CHECK IN A FIXED AMOUNT THAT WOULD  
9 ENABLE THE INDIVIDUAL TO INCUR A NEW OR ADDED MORTGAGE DEBT  
10 SOLELY BY ENDORSING THE CHECK.