

THE SECONDARY MORTGAGE LOAN ACT (EXCERPT)
Act 125 of 1981

493.77 Violation of act; making secondary mortgage loans without license as misdemeanor; penalty; civil fine; actions.

Sec. 27.

(1) In addition to the penalties provided by this act, a violation of this act with respect to a particular secondary mortgage loan transaction is also subject to the penalty and remedy provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(2) A person, association, nonprofit corporation, common law trust, joint stock company, limited liability company, or any other group of individuals, however organized, or any owner, partner, member, officer, director, trustee, employee, agent, broker, or representative thereof who or which willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$15,000.00, imprisonment for not more than 1 year, or both:

(a) Engages in this state in the business of a broker, lender, or servicer without a license or registration required under this act.

(b) Acts as a secondary mortgage loan officer in this state and is not a licensed secondary mortgage loan officer under the mortgage loan originator licensing act.

(c) Coerces or induces a real estate appraiser to inflate the value of real property used as collateral for a secondary mortgage loan, including, but not limited to, by doing any of the following:

(i) Representing or implying that a real estate appraiser will not be selected to conduct an appraisal of the real property or selected for future appraisal work unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(ii) Representing or implying that a real estate appraiser will not be paid for an appraisal unless the appraiser agrees in advance to a value, range of values, or minimum value for the real property.

(3) A person who violates this act or directly or indirectly counsels, aids, or abets in a violation is liable, in addition to other penalties and forfeitures imposed by this act, for a civil fine of not more than \$3,000.00 for each violation, except that a person shall not be fined more than \$30,000.00 for a transaction resulting in more than 1 violation, plus the costs of investigation. The civil fine shall be sued for and recovered by the commissioner and shall be collected and enforced by summary proceedings by the attorney general.

(4) Whether or not he or she seeks damages or has an adequate remedy at law, a person, a county prosecutor, or the attorney general may bring an action to do any of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is a violation of this act.

(b) Enjoin a person from engaging in, or who is about to engage in, a method, act, or practice that violates this act.

(c) Recover actual damages resulting from a violation of this act or \$250.00, whichever is greater, together with reasonable attorneys' fees and the costs of bringing the action.

History: 1981, Act 125, Imd. Eff. July 23, 1981 ;-- Am. 1992, Act 77, Imd. Eff. June 2, 1992 ;-- Am. 1995, Act 164, Eff. Mar. 28, 1996 ;-- Am. 1997, Act 91, Imd. Eff. Aug. 1, 1997 ;-- Am. 2008, Act 325, Imd. Eff. Dec. 18, 2008 ;-- Am. 2008, Act 530, Imd. Eff. Jan. 13, 2009 ;-- Am. 2009, Act 77, Eff. July 31, 2010

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

Popular Name: Secondary Mortgage Loan Act