

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2308

Session of
1986

INTRODUCED BY F. E. TAYLOR, L. E. SMITH, AFFLERBACH, COLE,
VAN HORNE, CALTAGIRONE, OLASZ, PRESTON, SEVENTY, DUFFY,
PISTELLA, LIVENGOD, LESCOVITZ, McVERRY, DININNI,
J. L. WRIGHT, GALLEN, CESSAR, KENNEY, BURD, REBER, NAHILL,
CORNELL, RIEGER AND COY, MARCH 18, 1986

AS REPORTED FROM COMMITTEE ON BUSINESS AND COMMERCE, HOUSE
OF REPRESENTATIVES, AS AMENDED, JUNE 17, 1986

AN ACT

1 Amending the act of December 12, 1980 (P.L.1179, No.219),
2 entitled, "An act to define and regulate secondary mortgage
3 loans and providing penalties," further limiting unlicensed
4 loans; providing for an application and a dishonored check
5 fee; setting the frequency of examinations; ~~and~~ prohibiting <—
6 loan-finders's fees; AND FURTHER PROVIDING FOR EXEMPTIONS. <—

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 3(a) of the act of December 12, 1980
10 (P.L.1179, No.219), known as the Secondary Mortgage Loan Act, is
11 amended to read:

12 Section 3. License requirements and exemptions.

13 (a) On and after the effective date of this act, no person
14 shall engage in the business of making secondary mortgage loans
15 in this Commonwealth except a business corporation organized
16 under the laws of this Commonwealth or any other state, after
17 first obtaining a license from the secretary in accordance with
18 the provisions of this act. A State-chartered or National bank,

1 bank and trust company, savings bank, private bank, savings
2 association or savings and loan association, having its
3 principal place of business in this Commonwealth, OR AN <—
4 INDIVIDUAL MAKING LOANS TO FAMILY MEMBERS, shall not be required
5 to be licensed under this act in order to make loans secured by
6 real property under this act. Any agency or instrumentality of
7 the United States Government or a corporation otherwise created
8 by an act of the United States Congress which engages in the
9 business of purchasing secondary mortgage loans shall not be
10 required to be licensed under this act in order to purchase
11 secondary mortgage loans from licensees under this act. This
12 shall include but not be limited to the Federal National
13 Mortgage Association and the Federal Home Loan Mortgage
14 Corporation. For the purpose of this act, a person is deemed to
15 be engaged in the secondary mortgage loan business in the
16 Commonwealth if:

17 (1) such person, his subsidiary or affiliate,
18 advertises, causes to be advertised, solicits, negotiates[,] <—
19 OR arranges IN THE ORDINARY COURSE OF BUSINESS, offers to <—
20 make or makes more than [twelve] two secondary mortgage loans
21 in a calendar year in this Commonwealth, whether directly or
22 by any person acting for his benefit; or

23 (2) such person, his subsidiary or affiliate, in the
24 ordinary course of business becomes the subsequent holder of
25 more than [twelve] two promissory notes or mortgages,
26 indentures or any other similar instruments or documents
27 received in a calendar year in connection with a secondary
28 mortgage loan.

29 * * *

30 Section 2. Section 9 of the act is amended by adding

1 paragraphs to read:

2 Section 9. Powers conferred on licensees.

3 All secondary mortgage loan licensees shall have power and
4 authority:

5 * * *

6 (7) To collect a fee for a subsequent dishonored check
7 or instrument taken in payment, NOT TO EXCEED THE SERVICE <—
8 CHARGE PERMITTED TO BE IMPOSED UNDER 18 PA.C.S. § 4105(E)(3).

9 (8) To charge and collect an application fee not
10 exceeding 2% of the original principal amount of the loan.
11 The fee shall be fully earned at the time the loan is made,
12 and may be added to the principal amount of the loan. No
13 application fee may be collected on subsequent advances made
14 pursuant to an open-end loan if the full fee of 2% of the
15 credit limit was collected at the time the loan was made.

16 Section 3. Section 10(a)(4) of the act is amended to read:

17 Section 10. Licensee requirements: records; reports;

18 examinations; receipts; information to be

19 furnished borrower.

20 (a) A secondary mortgage loan licensee shall:

21 * * *

22 (4) Be subject to an examination by the secretary at
23 least once [per] every two calendar [year] years, at which
24 time the secretary shall have free access, during regular
25 business hours, to the licensee's place or places of business
26 in this Commonwealth and to all instruments, documents,
27 accounts, books and records which pertain to the licensee's
28 secondary mortgage loan business. However, the secretary may
29 examine the licensee at any time if [he has reasonable cause <—
30 to believe the licensee is violating this act] THE SECRETARY <—

1 DEEMS SUCH ACTION NECESSARY OR DESIRABLE. The cost of any
2 such examination shall be borne by the licensee.

3 * * *

4 Section 4. Section 11 of the act is amended by adding a
5 paragraph to read:

6 Section 11. Licensee limitations.

7 A secondary mortgage loan licensee shall not:

8 * * *

9 (6) Require a borrower to pay, directly or indirectly,
10 to the licensee or any other person, a broker's fee, finder's
11 fee, commission, premium or any other charges for obtaining,
12 procuring or placing of a secondary mortgage loan, EXCEPT AS <—
13 PROVIDED IN THIS ACT.

14 Section 5. This act shall take effect immediately.