

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 3257
Version: First Engrossment
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Subject: Financial institutions omnibus bill
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DATE: March 6, 2002

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Overview

This is the department of commerce's omnibus financial institutions bill.

Section

- 1 **Precomputed loan refunds.** Eliminates current state law regulating prepayment penalties, which are dealt with elsewhere in this bill.
- 2 **Limits on interest and other charges.** Amends a law relating to preemption under 1981 federal law, to reflect the new section 58.137 enacted in this bill.
- 3 **Inapplicable laws; authorized investments.** Provides that the new section 58.137 enacted in this bill is the exclusive source of regulation of rates and charges on mortgage loans. Also makes technical changes.
- 4 **Application.** Eliminates a requirement that applicants for permission to establish a branch bank mail a notice of the filing of the application to all banks located within three miles of the proposed branch location. Retains the requirement of publishing the notice in a local newspaper.
- 5 **Approval order.** Makes a change to conform to the preceding section.
- 6 **Definitions.** Technical change to clarify references to industrial loan and thrift companies and finance companies, clarifying that the reference is to firms licensed to do business in this state. This clarifies that only those licensed in this state are allowed to use the interest rates and charges permitted under section 47.59.
- 7 **Applicability to banks and credit unions.** Makes the prepayment penalty provisions of the following section apply to federally-chartered and state-chartered banks and credit unions, which are otherwise exempt from most of chapter 58's regulation of mortgage lending. Broadens the general exemption for banks and credit unions to include their subsidiaries. Provides that the general exemption does not apply to a bank or credit union that allows lenders that are not exempt from chapter 58 to use the bank or credit union as a "front" in making a

loan.

8 **Interest, points, finance charges, fees, and other charges.**

Subd. 1. Financed interest, points, finance charges, and other charges. Prohibits residential mortgage lenders from including in the loan amount ("financing") lender fees to the extent that they exceed 5 percent of the loan amount. Defines "lender fee" and "loan amount." Prohibits lenders from collecting interest or principal on lender fees financed in violation of this section.

Subd. 2. Prepayment penalties. (a) Prohibits prepayment penalties on residential mortgage loans if they apply to partial prepayments, sales of the mortgaged property, any prepayment made more than 42 months after the loan was made, or if they amount to more than 2 percent of the unpaid balance or 60 days interest, whichever is less.

(b) For loans with prepayment penalties that violate the 2 percent/60 days interest law, requires lenders to disclose the penalty to prospective borrowers in several ways. The lenders that can violate that state law with impunity are those that take advantage of a federal law that preempts state laws regulating prepayment penalties if loans are structured to make them come under the federal law. That federal law is the Alternative Mortgage Transaction Parity Act of 1982. This paragraph requires lenders using that federal preemption to disclose the prepayment penalty to borrowers.

Subd. 3. Application. Makes this section apply to mortgage originators located in this state or elsewhere.

9 **Contracts of \$100,000 or more.** Amends a state usury exemption law involving loans of \$100,000 or more, to make those loans subject to the preceding section of this bill. Otherwise leaves intact their exemption from state usury laws. Eliminates language providing a default interest rate of 6 percent on those loans, which applies only if another interest rate is not contracted for.

10 **Credit to organizations.** Provides that state usury laws do not apply to loans to corporations or other organizations. This does not change state law, but is a clearer version of the law repealed in the next section of this bill.

11 **Repealer.** Repeals a law dealing with financial reserves of credit unions and the usury law replaced in the preceding section.

12 **Effective date.** Makes section 8 effective January 1, 2003.