

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 931

DATE: April 18, 2007

Version: Second engrossment

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Subject: Predatory lending

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Overview

This bill contains several provisions designed to reduce predatory lending. "Predatory lending" is the term used to refer to residential mortgage lending practices that are considered harmful to the borrower. The bill regulates mortgage lenders that make the loans and mortgage brokers that arrange the loans.

Section

- 1 Subprime loan.** Defines this term in different ways depending upon whether the mortgage loan is an adjustable rate mortgage (ARM) and upon whether it is a first lien mortgage loan.
- 2 Generally.** The new clause (23) prohibits a lender or mortgage broker from making or arranging a new mortgage loan to refinance a "special mortgage" unless the borrower has received independent qualified mortgage counseling on whether that is a good idea. A "special mortgage" is a mortgage loan that the borrower obtained from a government or nonprofit entity and that contains favorable terms for the borrower such as payments that vary with income or that are forgivable, subsidized interest rate, or other features listed in the bill.
- 3 Prepayment penalties.** Amends the existing law regarding prepayment penalties, which are imposed by lenders when a mortgage loan is fully or partly paid ahead of schedule. (This is often done as a result of a refinancing.) (The existing law prohibits prepayment penalties in some situations, permits limited ones in other situations, and requires disclosures of the penalties from lenders the state cannot regulate.) Totally bans prepayment penalties on subprime loans as defined in section 1 above. Provides that this new ban does not apply to a loan that exceeds, or that could exceed under a line of credit, the "conforming loan size

Section

limit" of Fannie Mae.

4 Private right of action.

Subd. 1. Remedies. Provides borrowers a private cause of action for violation of certain laws regulating mortgage lenders, mortgage brokers, and mortgage servicers. Requires the court to award (if the defendant is found to be liable) compensatory damages, statutory damages equal to the lender fees included in the principal of the loan, punitive damages, and attorney fees.

Subd. 2. Private attorney general statute. Permits bringing a private cause of action under section 8.31 for the same offenses covered by subdivision 1.

Subd. 3. Remedies cumulative. Makes the remedies provided in this section cumulative to any other remedies.

Subd. 4. Exemption. Says that this section does not apply to loans made by national or state banks, savings banks, or credit unions.

5 Residential mortgage fraud.

Subd. 1. Residential mortgage fraud prohibited. Defines and prohibits "residential mortgage fraud."

Subd. 2. Sentence. Specifies how the criminal penalty is determined. Limits imprisonment to two years. Provides that conviction of this crime does not bar prosecution or conviction for other (presumably related) crimes.

Subd. 3. Additional penalty for crimes against a disabled or elderly person. Adds an extra penalty for committing the crime in this section against a disabled person or senior citizen.

Subd. 4. Definitions. Defines "mortgage lending process" and "residential mortgage loan."

6 Private right of action.

Subd. 1. Remedies. Creates a private cause of action against real estate appraisers who violate certain laws that regulate them, one of which is accepting an appraisal assignment contingent on the appraiser determining that the appraised value is at least a specified dollar amount. Permits recovering several types of damages, including punitive damages, plus attorney fees.

Subd. 2. Private attorney general statute. Provides a private cause of action for persons harmed by certain violations of the state laws governing real estate appraisers.

Subd. 3. Remedies cumulative. Says that this section does not adversely affect any other rights of a borrower.