



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 534 (as enrolled)
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 Sponsor: Senator Michael J. Bouchard
 Senate Committee: Financial Services
 House Committee: Commerce

PUBLIC ACT 214 of 1995
PUBLIC ACT 198 of 1995
PUBLIC ACT 199 of 1995
PUBLIC ACT 200 of 1995

Date Completed: 4-10-96

RATIONALE

Reportedly, some Michigan lenders that require mortgagors to maintain property/casualty insurance as a condition of a loan have demanded coverage in the amount of the mortgage, even if the mortgage amount is greater than the replacement cost of the building or buildings being mortgaged. For example, if a consumer buys a piece of property that costs \$50,000 and builds a home on that parcel at a cost of \$100,000, he or she might seek a mortgage loan of 80% of the total cost, or \$120,000. The mortgage amount in this instance exceeds the cost of the structure, but the mortgagee might require insurance that covers the full amount of the mortgage. Some people believe that this is unnecessary and that required insurance coverage amounts should be based on the cost of replacing a structure, not on the amount of a mortgage loan. They suggest prohibiting lenders from requiring insurance coverage of more than the replacement cost of the building or buildings, except when that level of coverage is a condition of the sale of a mortgage from one mortgagee to another.

not require that a lender anticipate a sale, transfer, or assignment at the time the mortgage loan is made.

Senate Bill 534 amended Public Act 135 of 1977, which regulates mortgage lending practices, and applies to a "credit granting institution". ("Credit granting institution", under that Act, means a State- or nationally chartered bank, a State- or Federally chartered savings and loan association, a State- or Federally chartered credit union, the Michigan State Housing Development Authority, or a business entity making or purchasing mortgage loans, that has a main office, branch office, or service center doing business within Michigan.) Senate Bill 535 amended the Banking Code and applies to a bank. Senate Bill 536 amended the Savings and Loan Act and applies to an "association" or "federal association". ("Association", under that Act, means a domestic savings and loan association or domestic savings bank; "federal association" means a corporate organization that transacts business pursuant to authority granted under the Federal Home Owners' Loan Act, with its principal office located in Michigan.) Senate Bill 537 amended the credit union Act and applies to a credit union.

CONTENT

Senate Bills 534, 535, 536, and 537 amended various acts to specify that a lender that requires a mortgagor to maintain property/casualty insurance as a condition to receiving a mortgage loan may not require the amount of the property/casualty insurance to be greater than the replacement cost of the mortgaged building or buildings. A lender may require, however, an amount of property/casualty insurance that is required of the lender as a condition of sale, transfer, or assignment of all or part of the mortgage to a third party. The bills do

MCL 445.1602a (S.B. 534)
 MCL 487.451i (S.B. 535)
 MCL 491.702a (S.B. 536)
 MCL 490.16b (S.B. 537)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills offer a degree of protection to consumers by prohibiting lenders from requiring mortgagors to pay needlessly high property insurance premiums. If the land is a large part of the value of a mortgaged property, it makes little sense to require insurance coverage on the entire amount of the loan, rather than on the replacement value of the mortgaged building. All a home owner really needs to insure to protect the lender and himself or herself is the replacement value of the house. In the event of a fire or other type of property destruction, the value of the land is retained, so only the value of the building or buildings on that land should require insurance coverage.

Opposing Argument

The bills' provision that allows insurance coverage amounts required as a condition of the sale of a mortgage seems to undermine the new prohibition against requiring coverage in excess of the replacement cost of the mortgaged building or buildings.

Response: Mortgages are sometimes sold by one lender to another, and the transaction may occur between lenders operating in different states. A Michigan statutory limit on the amount of required coverage cannot be enforced against a third-party lender of another state that buys a Michigan mortgage. To avoid discouraging these sales between financial operators, the bills continue to allow a Michigan lender to require an amount of insurance coverage required as a condition of the sale of a mortgage.

Legislative Analyst: P. Affholter

FISCAL IMPACT

These bills will not affect the fiscal requirements or the borrowing or lending activities and programs of the Department of Commerce or of local governmental units.

Fiscal Analyst: K. Lindquist

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.