

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 708 (Substitute S-6 as reported)
Senate Bills 709 through 714 (Substitutes S-1 as reported)
Sponsor: Senator Valde Garcia
Committee: Banking and Financial Institutions

CONTENT

Senate Bill 708 (S-6) would create the "Michigan Predatory Lending Practices Act" to:

- Prohibit lenders from engaging in certain practices in regard to a "covered mortgage loan".
- Describe provisions that a covered mortgage loan could not contain.
- Require lenders to give applicants a "Borrowers Bill of Rights" and a written notice regarding the value of receiving credit counseling before taking out a covered mortgage loan.
- Require lenders to give first-time applicants for a covered mortgage loan or the refinancing of a covered mortgage loan, a video informing them of their rights under the bill, or the opportunity to view such a video.
- Require the Office of Financial and Insurance Services (OFIS) to develop and make available a model program for financial education, and to produce a video about borrowers' rights.
- Require the OFIS Commissioner, after determining that a person violated applicable Federal and State laws, to bring an action against the person and/or enforce the penalties and remedies under the law, if the person were licensed, regulated, chartered, or administered by the Commissioner under a law of this State, or, if not, forward a complaint to the appropriate State or Federal regulatory or investigatory authority.
- Allow the Commissioner to bring an action against a person to obtain a declaratory judgment; enjoin the person from violating the bill; obtain a maximum civil fine of \$10,000 for a first offense or \$20,000 for a second or subsequent offense; and/or order the person to make restitution to someone who suffered a violation.
- Prohibit local units of government from regulating mortgage practices.

A "covered mortgage loan" would be a credit transaction that was secured by the borrower's principal dwelling, and in which either of the following applied:

- The annual percentage rate at consummation would exceed by more than 8 percentage points for first-lien loans, or by more than 10 percentage points for subordinate-lien loans, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately before the month in which the creditor received the application for credit.
- The total points and fees payable by the borrower at or before loan closing would exceed 8% of the total loan amount or \$400, whichever was greater. The \$400 figure would have to be adjusted annually on January 1 by the annual percentage change in the consumer price index for the State that was reported on the previous June 1.

Prohibited practices would include charging a fee for a product or service that was not provided to the borrower; inserting or changing information on a loan application if the lender knew that the information was false and misleading and intended to deceive a third party that the borrower qualified for the loan; and financing as part of a covered mortgage loan single premium coverage for any credit life, credit disability, or credit unemployment. A covered

mortgage loan note could not contain blanks regarding payments, interest rates, maturity date, or amount borrowed to be filled in after the borrower signed the note.

A covered mortgage loan could not contain a payment schedule with regular periodic payments that caused the principal balance to increase; a payment schedule that consolidated more than two periodic payments and paid them in advance from the proceeds; an increase in the interest rate after default; or, except under certain circumstances, a penalty for paying all or part of the principal before the due date. A covered mortgage loan also could not include a demand feature that permitted the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except under certain circumstances.

Senate Bills 709 (S-1) through 714 (S-1) would amend various statutes to provide that a financial institution or a licensee would be subject to and would have to comply with all of the requirements of the proposed "Michigan Predatory Lending Practices Act". Senate Bills 709 (S-1), 710 (S-1), and 711 (S-1) would amend the Savings Bank Act, the credit union Act, and the Savings and Loan Act, respectively. Senate Bill 712 (S-1) would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act, and would apply to a licensee under that Act. Senate Bill 713 (S-1) would amend the Banking Code. Senate Bill 714 (S-1) would amend the Secondary Mortgage Loan Act and would apply to a licensee under that Act. Each bill is tie-barred to Senate Bill 708.

Proposed MCL 487.3435 (S.B. 709)
Proposed MCL 490.10a (S.B. 710)
Proposed MCL 491.737 (S.B. 711)
Proposed MCL 445.1674a (S.B. 712)
Proposed MCL 487.14206 (S.B. 713)
Proposed MCL 493.74a (S.B. 714)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bill 708 (S-6) would require OFIS to develop model programs for education and a video regarding borrowers' rights. These additional responsibilities would increase the cost of regulating this industry, which would be covered by the existing fee revenue. Additionally, the bill would establish civil fines for violations. The fines would be deposited into the General Fund. The amount of revenue generated would depend on the number of fines assessed.

Senate Bills 709 (S-1) through 714 (S-1) would have no fiscal impact on State or local government.

Date Completed: 11-13-02

Fiscal Analyst: Maria Tyszkiewicz

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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.