

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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House Bill 6121 (Substitute H-3 as discharged)  
House Bills 6122, 6123, and 6124 (as discharged)  
Sponsor: Representative Andrew Richner (House Bill 6121)  
Representative Michael Bishop (House Bills 6122-6124)  
House Committee: Commerce  
Senate Committee: Banking and Financial Institutions

## **CONTENT**

House Bill 6121 (H-3) would create the "Consumer Mortgage Protection Act" to regulate the practice of making, brokering, or servicing mortgage loans. (A "mortgage loan" would be a loan or home improvement installment contract secured by a mortgage, other lien, or land contract covering real property in the State used as the borrower's principal dwelling and designed for occupancy by four or fewer families. The term would not include loans in which the proceeds are used to acquire the dwelling; "reverse-mortgage transactions"; or an "open-end credit plan being a loan in which the lender reasonably contemplates repeated advances".)

The bill would prohibit a lender or other person from doing the following:

- Charging a fee for a product or service that was not actually provided to the customer; or misrepresenting the amount charged by or paid to a third party for a product or service.
- Financing, as part of the loan, single premium coverage for any credit life, credit disability, or credit unemployment.
- Inserting or changing information on a loan application in order to deceive a third party about the borrower's qualifications.
- Compensating or coercing an appraiser in order to influence his or her judgment about the value of a dwelling.

The bill also would do the following:

- Provide that a mortgage loan could not contain blanks regarding payments, interest rates, maturity date, or amount borrowed, to be filled in after the borrower signed the note.
- Require a lender, when a person applied for a mortgage loan, to give the applicant a "Borrower's Bill of Rights" and a written notice about the value of receiving credit counseling before taking out a mortgage loan.
- Authorize the Commissioner of the Office of Financial and Insurance Services (OFIS) to conduct examinations and investigations of a person over whom the Commissioner had regulatory authority.
- Require the Commissioner, when a person was violating the Act, to initiate a cause of action, enforce the penalties and remedies under a law administered by the Commissioner, or forward a complaint to the appropriate regulatory or investigatory authority.
- Allow the Attorney General or a prosecuting attorney to bring an action against a person for a declaratory judgment, to enjoin a violation, or to obtain a maximum civil fine of \$10,000 for a first offense or \$20,000 for a second or subsequent offense.
- Require OFIS to develop and make available to local units of government, financial institutions, and others, one or more model programs for financial education.
- Preempt local charters, ordinances, or rules to regulate the brokering, making, servicing, or collection of mortgage loans, and specify a legislative intent "to entirely preempt municipal corporations and other political subdivisions from the regulation and licensing of persons

engaged in the brokering, making, servicing, or collecting of mortgage loans in this state”.

House Bills 6122, 6123, and 6124 would amend the Mortgage Brokers, Lenders, and Servicers Licensing Act, the credit union Act, and the Savings Bank Act, respectively, to provide that a licensee, a credit union, or a savings bank would be subject to the proposed Consumer Mortgage Protection Act.

Proposed MCL 445.1674a (H.B. 6122)  
Proposed MCL 490.10a (H.B. 6123)  
Proposed MCL 587.3435 (H.B. 6124)

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The civil fines authorized under these bills would be deposited into the General Fund. Without data regarding the number of violations, there is no way to determine how much revenue would be generated from these fines.

Date Completed: 12-12-02

Fiscal Analyst: Maria Tyszkiewicz

Floor/hb6121

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.