

NONRECOURSE MORTGAGE LOAN ACT (EXCERPT)
Act 67 of 2012

445.1594 Loan documents not containing nonrecourse loan provisions; use.

Sec. 4. This act does not prohibit a loan secured by a mortgage on real property located in this state from being fully recourse to the borrower or the guarantor, including, but not limited to, as a result of a post closing solvency covenant, if the loan documents for that loan do not contain nonrecourse loan provisions.

History: 2012, Act 67, Imd. Eff. Mar. 29, 2012.

Compiler's note: Enacting section 1 of Act 67 of 2012 provides:

"Enacting section 1. The legislature recognizes that it is inherent in a nonrecourse loan that the lender takes the risk of a borrower's insolvency, inability to pay, or lack of adequate capital after the loan is made and that the parties do not intend that the borrower is personally liable for payment of a nonrecourse loan if the borrower is insolvent, unable to pay, or lacks adequate capital after the loan is made. The legislature recognizes that the use of a post closing solvency covenant as a nonrecourse carveout, or an interpretation of any provision in a loan document that results in a determination that a post closing solvency covenant is a nonrecourse carveout, is inconsistent with this act and the nature of a nonrecourse loan; is an unfair and deceptive business practice and against public policy; and should not be enforced. It is the intent of the legislature that this act applies to any claim made or action taken to enforce a post closing solvency covenant on or after the effective date of this act; to any claim made to enforce a post closing solvency covenant that is pending on the effective date of this act; and to any action to enforce a post closing solvency covenant that is pending on the effective date of this act, unless a judgment or final order has been entered in that action and all rights to appeal that judgment or final order have been exhausted or have expired."