



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 578 (as enacted)
Sponsor: Senator Darwin L. Boohar
Senate Committee: Banking and Financial Institutions
House Committee: Financial Services

PUBLIC ACT 44 of 2016

Date Completed: 1-11-17

RATIONALE

The Consumer Mortgage Protection Act formerly required a lender to provide a person with a document called the "Borrowers Bill of Rights" at the time the person applied for a residential mortgage loan (not including a loan to purchase the dwelling). The "Borrowers Bill of Rights" specified 10 rights codified by various State and Federal laws including, for example, the right to shop for the best loan and the right to be informed about the total cost of the loan. The lender also was required to provide an applicant with information about credit counseling. It was suggested that this document was unnecessary due to Federal requirements that lenders provide different material.

Specifically, under the Federal Real Estate Settlement Procedures Act (RESPA) and Federal regulations, a lender must distribute a special information booklet within three days of receiving or preparing a mortgage loan application. The booklet addresses compliance with the requirements of the Truth in Lending Act and the RESPA, and must include, for example, an explanation of each cost incident to a real estate settlement, an explanation of the standard real estate settlement form, and an explanation of the unfair practices and unreasonable charges to be avoided by the prospective buyer. Some believed that the information presented in the special information booklet made the "Borrowers Bill of Rights" and the credit counseling information redundant. To address this, it was suggested that a lender be required to furnish a mortgage loan applicant with the special information booklet only.

CONTENT

The bill amended the Consumer Mortgage Protection Act to do the following:

- **Require a lender to provide an applicant for a mortgage loan with a copy of a special information booklet issued under the authority of the Real Estate Settlement Procedures Act, instead of the "Borrowers Bill of Rights".**
- **Require the Department of Insurance and Financial Services to prepare a document describing the rights of borrowers in mortgage loan transactions, if the Federal government amends or eliminates the special information booklet.**

The bill also repealed Section 7 of the Act, which pertained to a required notice about credit counseling.

The bill took effect on June 13, 2016.

(The Act defines "mortgage loan" as a loan or home improvement installment contract secured by a first or subordinate mortgage or other form of lien or a land contract that covers real property located in Michigan that is used as the borrower's principal dwelling and is designed for occupancy by four or fewer families. The term does not include a loan transaction in which the proceeds are

used to acquire the borrower's principal residence; a reverse-mortgage transaction; an open-end credit plan; or a loan transaction in which the proceeds are not used primarily for a personal, family, or household purpose.)

The Act previously required a lender, at the time a person applied for a mortgage loan, to provide the applicant with the "Borrowers Bill of Rights". The bill eliminated this language and, instead, requires a lender to provide an applicant with a copy of the special information booklet described in 12 CFR 1024.6, issued under the authority of the RESPA.

If the Federal government repeals or amends 12 CFR 1024.6, or ceases publication of the special information booklet, the Department must prepare a document that describes the rights of borrowers in mortgage loan transactions; review the document annually to ensure its accuracy; and make it available to lenders and the public. If the document is available to a lender at the time a person applies for a mortgage loan, the lender must provide a copy to the applicant.

The bill also repealed Section 7 of the Consumer Mortgage Protection Act, which required a lender to provide an applicant with a written notice regarding the value of credit counseling before taking out a mortgage loan.

MCL 445.1632 et al.

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 Federal government's Consumer Financial Protection Bureau requires the special information booklet to be given to a mortgage loan applicant. The booklet includes more information than the "Borrowers Bill of Rights", and is a good resource for prospective borrowers. Applicants for a mortgage loan are given a significant amount of paperwork to read and complete. The bill eliminates some of the redundancies while preserving an avenue for individuals to know their rights and other information during the mortgage loan application process.

Opposing Argument

The Consumer Mortgage Protection Act was enacted in response to widespread issues in lending practices. In part, the Act was meant to establish a system to protect consumers and educate them about their rights throughout the mortgage lending process. While the Federal government also has established guidelines and resources for consumers, it is not necessary to eliminate important tools for educating consumers in Michigan. The Consumer Financial Protection Bureau's special information booklet, while useful, does not include the statement of rights that the Borrowers Bill of Rights did. The special information booklet is 28 pages long; the Borrowers Bill of Rights was one page. A consumer is more likely to read a shorter document explaining his or her rights than a 28-page booklet. Formerly, lenders were required to distribute both documents during some mortgage loan transactions; the bill does not lessen the burden on lenders materially, but reduces the amount of helpful information given to mortgage loan borrowers.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill may result in increased administrative burdens for the Department of Insurance and Financial Services, depending on circumstances at the Federal level of government. If the Federal government ceases publication of the special information booklet described in 12 CFR 1024.6, the Department then will have to prepare, and make available to lenders and the public, a document describing borrowers' rights. The bill will have no fiscal impact at the local level.

Fiscal Analyst: Michael Siracuse

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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.