



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 578 (as passed by the Senate)
Sponsor: Senator Darwin L. Boohar
Committee: Banking and Financial Institutions

Date Completed: 1-22-16

RATIONALE

The Consumer Mortgage Protection Act requires a lender to provide a person with a document called the "Borrowers Bill of Rights" at the time the person applies for a residential mortgage loan (not including a loan to purchase the dwelling). The "Borrowers Bill of Rights" specifies 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 must provide an applicant with information about credit counseling. It has been suggested that this document is 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 believe that the information presented in the special information booklet makes the "Borrowers Bill of Rights" and the credit counseling information redundant. To address this, it has been suggested that a lender should be required to furnish a mortgage loan applicant with the special information booklet only.

CONTENT

The bill would amend 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 amended or eliminated the special information booklet.**

The bill also would repeal Section 7 of the Act, which pertains to a required notice about credit counseling.

The bill would take effect 90 days after its enactment.

(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 requires a lender, at the time a person applies for a mortgage loan, to provide the applicant with the "Borrowers Bill of Rights". The bill would eliminate this language and, instead, require 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 repealed or amended 12 CFR 1024.6, or ceased publication of the special information booklet, DIFS would have to prepare a document that described 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 were available to a lender at the time a person applied for a mortgage loan, the lender would have to provide a copy to the applicant.

The bill also would repeal Section 7 of the Consumer Mortgage Protection Act, which requires 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 would eliminate 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 does. The special information booklet is 28 pages long; the Borrowers Bill of Rights is one page. A consumer is more likely to read a shorter document explaining his or her rights than a 28-page booklet. Currently, lenders are required to distribute both documents during some mortgage loan transactions; the bill would not lessen the burden on lenders materially, but would reduce the amount of helpful information given to mortgage loan borrowers.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could 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 ceased publication of the special information booklet described in 12 CFR 1024.6, the Department then would have to prepare, and make available to lenders and the public, a document describing borrowers' rights. The bill would have no fiscal impact at the local level.

Fiscal Analyst: Glenn Steffens

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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.