SENATE BILL REPORT
SB 5671

As of February 25, 2003

Title: An act relating to mortgage lending.

Brief Description: Regulating mortgage lending practices.

Sponsors: Senators Keiser, Winsley, Doumit and Kohl-Welles.

Brief History:
Committee Activity: Financial Services, Insurance & Housing: 2/27/03.

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Staff: Jack Brummel (786-7428)

Background: The Consumer Loan Act regulates consumer loan companies, lenders who make loans at higher interest rates than other financial institutions or credit card issuers. Unfair or deceptive acts prohibited by the Consumer Loan Act are also violations of the Consumer Protection Act.

Summary of Bill: Lenders regulated by the Consumer Loan Act are prohibited from making a home loan if they did not have reasonable grounds for believing the loan would provide a net tangible benefit to the borrower. Making a home loan that does not provide a net tangible benefit is unconscionable and a violation of the Consumer Loan Act.

A number of refinance or second mortgage loan situations are specified that would be presumed to provide a net tangible benefit, including loans that (1) meet conventional terms; (2) retire a loan and have no higher payments while providing cash exceeding the closing costs; (3) have interest payments within 6 to 8 percent of treasury bonds, points and fees below 6 percent of the total loan amount, and monthly payments of not more than 50 percent of gross monthly income; and (4) the borrower has asserted, via a notarized statement, provide a net tangible benefit.

Loans that presumably provide no net tangible benefit include loans which refinance unsecured debt and bear interest rates higher than the unsecured debt or loans that would cause the loss of benefits of a guaranteed or subsidized loan.

Prepayment penalties are addressed in three ways: (1) penalties may not be charged more than two years after the making of the loan; (2) penalties may not be charged if there was inadequate disclosure; (3) the Department of Financial Institutions may order penalties waived if the lender has engaged in deceptive practices prohibited by the Consumer Loan Act.

The lender fees charged at closing may not exceed the good faith estimates of fees given to the consumer at the start of the loan by more than 10 percent.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.