

SENATE BILL REPORT

SHB 2770

As Reported By Senate Committee On:
Financial Institutions & Insurance, February 27, 2008

Title: An act relating to homeownership security, responsible mortgage lending, and improving protections for residential mortgage loan consumers.

Brief Description: Enacting the governor's homeownership security task force recommendations regarding responsible mortgage lending and homeownership.

Sponsors: House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Kenney, Lantz, Upthegrove, Conway, Morrell, Schual-Berke, McIntire, Hudgins, Simpson and Rolfes; by request of Governor Gregoire).

Brief History: Passed House: 2/06/08, 92-0.

Committee Activity: Financial Institutions & Insurance: 2/26/08, 2/27/08 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton, Ranking Minority Member; Franklin, Parlette, Prentice and Schoesler.

Staff: Diane Smith (786-7410)

Background: The Governor created a task force to evaluate instability in the national subprime mortgage market and to make recommendations to minimize the impact of this national trend in Washington. One charge of the task force was to recommend reforms to Washington lending practices, as needed.

The final report of the Washington Task Force for Homeowner Security was issued on December 14, 2007. It makes 23 consensus recommendations in eight subject categories. Those recommendations concerning reforms to Washington lending practices are incorporated.

Summary of Bill: The Department of Financial Institutions (DFI) has rule making authority to create a standard form of disclosure summary that financial institutions must use as a guide for a mandatory, single-page disclosure. This disclosure must be given to any person who consults with or retains a mortgage professional for information about a residential mortgage loan. The disclosure must contain all costs associated with the loan, including the yield spread premium stated as a dollar amount; fees and discount points; whether the loan contains

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

prepayment penalties, a balloon payment, or a future adjustment to the interest rate (ARM); and other facts.

The objectives of federal guidelines on nontraditional mortgage product risks and the federal statement on subprime lending must be part of the financial institutions' internal policies.

No prepayment penalties on residential mortgage loans may apply within 60 days before the initial reset period of an ARM.

Nontraditional and subprime mortgage products may not impose negative amortization.

Mortgage brokers and consumer loan companies are prohibited from steering customers to buy mortgage products that result in higher costs for the borrower than those for which the borrower's circumstances would otherwise make the borrower qualified. Fraud, unfair or deceptive practices, and obtaining property by fraud or material misrepresentation by any person brokering or obtaining a residential mortgage loan are unlawful. Doing so knowingly is a crime, subjecting the perpetrator to a fine of \$20,000 or confinement for ten years, or both. For purposes of sentencing guidelines, mortgage fraud is a serious level III offense. Doing so is also defined as criminal profiteering for purposes of racketeering crimes.

The mortgage broker's duty of care to the public is defined as good faith, abstinence from deception, and the practice of honesty and equity in all matters related to the profession.

The notice of trustee's sale, required at least 30 days before the notice of sale of the property in a foreclosure proceeding is served, must include a prominent notice to the homeowner of the homeowner's rights and options. This prominent notice applies only to property secured by a deed of trust that is an owner-occupied residential property.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Substitute Bill: PRO: Mortgage lending is necessary to the common American dream of owning one's own home. This dream has become a nightmare. There has been a 75 percent increase in foreclosure filings from 2006 to 2007. Washington is not hardest hit, but we're getting there. This bill protects the American dream from bad deals and unscrupulous lending. It offers good information and addresses the tremendous fallout of the mortgage crisis. The bill is a commonsense approach to necessary improvements. It is nearly identical to the Senate bill. The Governor would be very pleased if either bill went to her desk. The bill captures the very balanced task force's recommendations. It directly mirrors the Senate bill.

Persons Testifying: PRO: Representative Phyllis Kenney, prime sponsor; Kari Burrell, Governor's Office; Debra Bortrer, Department of Financial Institutions; Denny Eliason, Washington Bankers' Association.