

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

January 28, 2009

Date

Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

HB09-1085 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 20, line 4, strike "borrower;" and substitute
- 2 "borrower, BUT THE MORTGAGE LOAN ORIGINATOR SHALL NOT BE DEEMED
- 3 TO VIOLATE THIS SECTION IF THE BORROWER CONCEALS OR
- 4 MISREPRESENTS RELEVANT INFORMATION;"
- 5 line 15, strike "shall" and substitute "~~shall~~ MAY";
- 6 line 16, after "applicant", insert "OR LICENSEE".
- 7 Page 22, line 11, strike "(I)";
- 8 line 15, strike "9." and substitute "9";
- 9 strike lines 16 through 27.
- 10 Page 24, line 25, strike "SUBJECT TO" and substitute "WHO, AFTER AN";
- 11 line 26, strike "PART 9" and substitute "PART 9, IS FOUND TO BE IN
- 12 VIOLATION OF A PROVISION OF THIS PART 9" and, strike "COSTS" and
- 13 substitute "REASONABLE AND NECESSARY COSTS OF THE DIVISION".
- 14 Page 25, line 8, strike "~~person~~ INDIVIDUAL," and substitute "person,".
- 15 Page 27, line 2, after "licensee", insert "OR APPLICANT".

1 Page 29, line 2, strike "person INDIVIDUAL" and substitute "person WHO
2 IS" and, strike "9;" and substitute "9";

3 line 8, strike "country." and substitute "country OR IS NOT REGISTERED IN
4 COMPLIANCE WITH THE FEDERAL "SECURE AND FAIR ENFORCEMENT FOR
5 MORTGAGE LICENSING ACT OF 2008", 12 U.S.C. SEC. 5101 ET SEQ.;"

6 Page 43, line 19, strike "Except as" and substitute "Except as";

7 strike lines 20 through 23 and substitute the following:

8 "required by paragraph (c) of subsection (2) of this section, this
9 subsection (1) shall not be construed to require disclosure of the
10 distribution or breakdown of loan fees, discounts, or points between the
11 mortgage broker LOAN ORIGINATOR and any MORTGAGE lender or
12 investor."

13 Page 50, line 8, after "38-40-105", insert "(1) (f), (1.5) and", and strike
14 "is" and substitute "are";

15 strike line 12 and substitute the following:

16 "(1) The following acts by any mortgage broker, mortgage originator,
17 mortgage lender, mortgage loan applicant, real estate appraiser, or closing
18 agent, other than a person who provides closing or settlement services
19 subject to regulation by the division of insurance, with respect to any loan
20 that is secured by a first or subordinate mortgage or deed or trust lien
21 against a dwelling are prohibited:

22 (f) ~~To knowingly facilitate the consummation of a mortgage loan~~
23 ~~transaction that violates, or that is connected with a violation of,~~
24 ~~subsection (1.5) of this section.~~

25 (1.5) (a) ~~A mortgage broker or the broker's agent shall provide the~~
26 ~~borrower with draft copies of the mortgage loan agreement and all other~~
27 ~~documents material to the transaction, completed to the extent possible in~~
28 ~~accordance with good-faith estimates, at least one business day before~~
29 ~~closing. There shall be no blank spaces remaining on the agreement form~~
30 ~~and no change to any material term of the agreement or of any~~
31 ~~accompanying document during this time.~~

1 ~~(b) As used in this subsection (1.5), "documents material to the~~
2 ~~transaction" include, without limitation, the deed of conveyance, except~~
3 ~~in the case of a refinancing, the loan agreement, and the title documents~~
4 ~~if requested by the borrower.~~

5 (7) As used in this section, unless the context otherwise requires:".

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