State of Arkansas *As Engrossed: S4/1/13 H4/6/13*
89th General Assembly
Regular Session, 2013 SENATE BILL 871

A Bill

By: Senator J. Key
By: Representative Perry

For An Act To Be Entitled

AN ACT TO REVISE THE FAIR MORTGAGE LENDING ACT; AND FOR OTHER PURPOSES.

Subtitle

TO REVISE THE FAIR MORTGAGE LENDING ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 23-39-502(9)(B)(vi), concerning the definition of "exempt person", is amended to read as follows:

(vi) A state or federally chartered bank, <u>an operating subsidiary of a state chartered bank regulated by the State Bank Department, a</u> savings bank, <u>a</u> savings and loan association, or <u>a</u> credit union, the accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration ~~or any of their operating subsidiaries~~;

SECTION 2. Arkansas Code § 23-39-502(9)(B)(xii), concerning the definition of "exempt person", is amended to read as follows:

(xii) An attorney ~~at law rendering services in the performance of his or her duties as an attorney at law~~ <u>licensed in Arkansas rendering legal services to his or her client, when the conduct that would subject the attorney to the jurisdiction of this subchapter is ancillary to the provision of the legal services offered</u>;

SECTION 3. Arkansas Code § 23-39-502(11)(A), concerning the definition of "loan officer", is amended to add an additional subdivision to read as follows:

(v) Provides or offers to provide modification of a mortgage loan.

SECTION 4. Arkansas Code § 23-39-502(17), concerning the definition of "mortgage servicer", is amended to read as follows:

(17) “Mortgage servicer” means a person that receives~~,~~ or has the right to receive~~,~~ from or on behalf of a borrower:

SECTION 5. Arkansas Code § 23-39-513, concerning prohibited activities, is amended to add additional subdivisions to read as follows:

(15) To fail to make payments in a timely manner from an escrow account held for the borrower to pay insurance, taxes, and other charges concerning the mortgage property without good cause, and the failure to pay results in late penalties or other negative activity;

(16) To place hazard, homeowners, or flood insurance on a mortgaged property:

(A) Without providing prior written notice to the borrower;

(B) If the mortgage servicer knows or has reason to know that adequate insurance coverage already exists; or

(C) In an amount that unreasonably exceeds the value of the insurable improvements or the last-known coverage amount or policy limits of insurance; or

(17)(A) To fail to refund to the borrower unearned premiums paid by or charged to a borrower for hazard, homeowners, or flood insurance placed by a mortgage banker or mortgage servicer if reasonable proof is available or provided that the borrower had or obtained coverage in effect resulting in the unnecessary placement of forced insurance.

(B) The borrower shall receive a refund of excess premium funds taken from the borrower when reasonable proof is provided within twelve (12) months of the forced placement.

SECTION 6. The introductory language of Arkansas Code § 23-39-514(d),

concerning disciplinary authority, is amended to read as follows:

(d) The commissioner by summary order may cancel a license or application if the commissioner finds that a licensee or applicant for a license:

/s/J. Key

APPROVED: 04/12/2013