

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	6 - 4 - 0
Yeas:	Barton, Cowan, Matthews, Riley, Tomei, Holvey
Nays:	Gilliam, Krieger, Weidner, Wingard
Exc.:	0
Prepared By:	Victoria Cox, Administrator
Meeting Dates:	1/28, 3/25

WHAT THE MEASURE DOES: Prohibits mortgage banker, mortgage broker or loan originator from making a negative amortization loan without verifying borrower's ability to repay. Requires mortgage banker, mortgage broker or loan originator who advertises and/or conducts business in a language other than English to provide certain disclosures in language in which the loan is negotiated. Provides that court may not award attorney fees to mortgage banker or mortgage broker that prevails as a defendant in action brought by borrower who took action in good faith with specified notice.

ISSUES DISCUSSED:

- Causes of the sub-prime mortgage crisis
- Recently enacted federal standards
- Appropriateness of regulating state mortgage lenders differently than federally regulated lenders
- High-risk vs. negative amortization loans
- Application of federal standards for high-risk loans to negative amortization loans
- Federally required disclosure documents
- Ramifications of providing disclosure documents in languages other than English
- Application only in cases where mortgages are advertised and negotiated in language other than English
- Private right of action for consumer in disputed mortgage lending cases
- Effect of liability for lenders' attorney fees on consumer's ability to sue
- Limitation of attorney fee award to cases brought by consumer in good faith

EFFECT OF COMMITTEE AMENDMENT: Establishes that the measure applies to transactions that occur and court actions that commence on or after the effective date.

BACKGROUND: HB 2188-A addresses perceived gaps in new federal mortgage lending standards identified by the Governor's Mortgage Lending Work Group.

While the group did not reach consensus, the three issues addressed in the measure represent areas of concern to the Department of Consumer and Business Services. New federal standards regarding high-risk loans do not apply to negative amortization loans. The provision of federally required truth in lending documents in languages other than English is not required. The risk of liability for the lender's attorney fees impedes the consumer's private right of action. HB 2188-A creates new regulations in these three areas.

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This summary has not been adopted or officially endorsed by action of the committee.