

Bill No. CS for SB's 352 & 240

Barcode 182894

CHAMBER ACTION

Senate

House

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Comm: RCS
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The Committee on Judiciary (Fasano) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 817.545, Florida Statutes, is created to read:

817.545 Real property fraud.--

(1) For the purposes of the section, the term "mortgage lending process" means the process through which a person seeks or obtains a residential mortgage loan, including, but not limited to, the solicitation, application or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan. Documents involved in the mortgage lending process include, but are not limited to, mortgages, deeds, surveys, inspection reports, uniform residential loan applications, or other loan applications; appraisal reports; HUD-1 settlement statements; supporting personal documentation for loan

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1 applications such as W-2 forms, verifications of income and
2 employment, credit reports, bank statements, tax returns, and
3 payroll stubs; and any required disclosures.

4 (2) A person commits the offense of real property
5 fraud if, with the intent to defraud, the person knowingly:

6 (a) Makes any material misstatement,
7 misrepresentation, or omission during the mortgage lending
8 process with the intention that the misstatement,
9 misrepresentation, or omission will be relied on by a mortgage
10 lender, borrower, or any other person or entity involved in
11 the mortgage lending process; however, omissions on a loan
12 application regarding employment, income, or assets for a loan
13 which does not require this information are not considered a
14 material omission for purposes of this subsection.

15 (b) Uses or facilitates the use of any material
16 misstatement, misrepresentation, or omission during the
17 mortgage lending process with the intention that the material
18 misstatement, misrepresentation, or omission will be relied on
19 by a mortgage lender, borrower, or any other person or entity
20 involved in the mortgage lending process; however, omissions
21 on a loan application regarding employment, income, or assets
22 for a loan which does not require this information are not
23 considered a material omission for purposes of this
24 subsection.

25 (c) Receives any proceeds or any other funds in
26 connection with the mortgage lending process that the person
27 knew resulted from a violation of paragraph (a) or paragraph
28 (b).

29 (d) Files or causes to be filed with the clerk of the
30 circuit court for any county of this state a document involved
31 in the mortgage lending process which contains a material

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1 misstatement, misrepresentation, or omission.

2 (3) An offense of real property fraud may not be
3 predicated solely upon information lawfully disclosed under
4 federal disclosure laws, regulations, or interpretations
5 related to the mortgage lending process.

6 (4) For the purpose of venue under this section, any
7 violation of this section is considered to have been
8 committed:

9 (a) In the county in which the real property is
10 located; or

11 (b) In any county in which a material act was
12 performed in furtherance of the violation.

13 (5) Any person who violates subsection (2) commits a
14 felony of the third degree, punishable as provided in s.
15 775.082, s. 775.083, or s. 775.084.

16 Section 2. This act shall take effect October 1, 2007.

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19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete everything before the enacting clause

22

23 and insert:

24 A bill to be entitled
25 An act relating to real property fraud;
26 creating s. 817.545, F.S.; defining the term
27 "mortgage lending process"; specifying the
28 elements of the offense of real property fraud;
29 providing that such offense is a third-degree
30 felony; providing for venue with respect to the
31 committed offense; providing penalties;

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1 providing an effective date.

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