

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S4/1/13 H4/6/13

A Bill

SENATE BILL 871

5 By: Senator J. Key
6 By: Representative Perry
7

For An Act To Be Entitled

9 AN ACT TO REVISE THE FAIR MORTGAGE LENDING ACT; AND
10 FOR OTHER PURPOSES.
11

Subtitle

14 TO REVISE THE FAIR MORTGAGE LENDING ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code § 23-39-502(9)(B)(vi), concerning the
20 definition of "exempt person", is amended to read as follows:

21 (vi) A state or federally chartered bank, an
22 operating subsidiary of a state chartered bank regulated by the State Bank
23 Department, a savings bank, a savings and loan association, or a credit
24 union, the accounts of which are insured by the Federal Deposit Insurance
25 Corporation or the National Credit Union Administration ~~or any of their~~
26 ~~operating subsidiaries;~~
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28 SECTION 2. Arkansas Code § 23-39-502(9)(B)(xii), concerning the
29 definition of "exempt person", is amended to read as follows:

30 (xii) ~~An attorney at law rendering services in~~
31 ~~the performance of his or her duties as an attorney at law~~ licensed in
32 Arkansas rendering legal services to his or her client, when the
33 conduct that would subject the attorney to the jurisdiction of this
34 subchapter is ancillary to the provision of the legal services
35 offered;
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1 SECTION 3. Arkansas Code § 23-39-502(11)(A), concerning the definition
2 of "loan officer", is amended to add an additional subdivision to read as
3 follows:

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

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

9 (17) "Mortgage servicer" means a person that receives, or has
10 the right to receive, from or on behalf of a borrower:

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

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

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

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

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

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

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

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

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

1 concerning disciplinary authority, is amended to read as follows:

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

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/s/J. Key

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APPROVED: 04/12/2013

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