

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

A Bill

SENATE BILL 871

5 By: Senator J. Key
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For An Act To Be Entitled

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

Subtitle

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

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

29 (xii) An attorney at law rendering services in the
30 performance of his or her duties as an attorney at law who, as an ancillary
31 matter and on behalf of a client, originates, negotiates, or modifies the
32 terms of a mortgage loan unless the attorney is compensated by the mortgage
33 broker, mortgage banker, or mortgage servicer;
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35 SECTION 3. Arkansas Code § 23-39-502(11)(A), concerning the definition
36 of "loan officer", is amended to add an additional subdivision to read as



1 follows:

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

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

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

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

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

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

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

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

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

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

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

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34 SECTION 6. The introductory language of Arkansas Code § 23-39-514(d),
35 concerning disciplinary authority, is amended to read as follows:

36 (d) The commissioner by summary order may cancel a license or

1 application if the commissioner finds that a licensee or applicant for a
2 license:

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