

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

*As Engrossed: S4/1/13*

# 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.  
15  
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

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;~~  
27

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 the  
31 performance of his or her duties as an attorney at law who, as an ancillary  
32 matter and on behalf of a client, originates, negotiates, or modifies the  
33 terms of a mortgage loan unless the attorney is compensated by the mortgage  
34 broker, mortgage banker, or mortgage servicer;  
35

36 SECTION 3. Arkansas Code § 23-39-502(11)(A), concerning the definition



1 of "loan officer", is amended to add an additional subdivision to read as  
2 follows:

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

5

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

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

10

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

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

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

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

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

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

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

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

34

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

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

4  
5 /s/J. Key  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36