

Stricken language would be deleted from and underlined language would be added to present law.

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.

### 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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6 /s/J. Key  
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