

FIRST REGULAR SESSION

SENATE BILL NO. 560

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SHIELDS.

Read 1st time February 21, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2224S.011

AN ACT

To repeal section 443.819, RSMo, and to enact in lieu thereof one new section relating to residential mortgage fraud, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 443.819, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 443.832, to read as follows:

**443.832. 1. A person commits residential mortgage fraud if, with
2 the intent to defraud, the person engages in any of the following
3 practices:**

4 **(1) Knowingly makes any deliberate misstatement,
5 misrepresentation, or omission during the mortgage lending process
6 that is relied on by a mortgage lender, borrower, or other party to the
7 mortgage lending process;**

8 **(2) Knowingly uses or facilitates the use of any deliberate
9 misstatement, misrepresentation, or omission during the mortgage
10 lending process that is relied on by a mortgage lender, borrower, or
11 other party to the mortgage lending process;**

12 **(3) Receives any proceeds or other moneys in connection with a
13 residential mortgage that the person knows resulted from a violation
14 of subdivisions (1) or (2) of this subsection;**

15 **(4) Files or causes to be filed with the office of the county
16 recorder of any county of this state any document relating to a
17 residential mortgage loan that the person knows to contain a
18 deliberated misstatement, misrepresentation, or omission.**

19 **2. An offense involving residential mortgage fraud shall not be**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 based solely on information that is lawfully disclosed under federal
21 disclosure laws, regulations, and interpretations related to the
22 mortgage lending process.

23 3. A person who violates this section is guilty of a class D felony,
24 except that a person who engages or participates in a pattern of
25 residential mortgage fraud or who conspires to engage or participate
26 in a pattern of residential mortgage fraud is guilty of a class B felony.

27 4. For the purposes of this section the following terms shall have
28 the following meanings:

29 (1) "Mortgage lending process", the process through which a
30 person seeks or obtains a residential mortgage loan including
31 solicitation, application, origination, negotiation of terms, third-party
32 provider services, underwriting, signing, closing, and funding of the
33 loan;

34 (2) "Pattern of residential mortgage fraud", one or more
35 misstatements, misrepresentations, or omissions that are made during
36 the mortgage lending process, that involve two or more residential
37 properties and that have the same or similar intents, results,
38 accomplices, victims, or methods of commission or are otherwise
39 interrelated by distinguishing characteristics;

40 (3) "Residential mortgage law", a loan or agreement to extend
41 credit to a person that is secured by a deed to secure debt, security
42 deed, mortgage, security interest, deed of trust, or other document
43 representing a security interest or lien on any interest in one-to-four
44 family residential property and includes the renewal or refinancing of
45 any loan.

[443.819. 1. No person engaged in a business regulated by
2 sections 443.800 to 443.893 shall operate such business under a
3 name other than the real names of the persons conducting such
4 business, a corporate name adopted pursuant to chapter 351,
5 RSMo, or a fictitious name registered with the secretary of state's
6 office.

7 2. Any person who knowingly violates this section shall be
8 deemed guilty of a class A misdemeanor. A person who is convicted
9 of a second or subsequent violation of this section shall be deemed
10 guilty of a class C felony.]