

House Bill 4306: An act protecting and preserving home ownership.

Engrossed October 18, 2007

Provides new protections for current and future homeowners by further regulating the purchase and foreclosure of home loan mortgages for owner-occupied 1 to 4 family houses.

Section by section summary:

SECTION 1 (see also sections 12 and 13). Appropriates \$3 million to fund staff at the Division of Banks (DOB) to implement and enforce mortgage loan originator licensure. \$2 million provided for a community foreclosure and mortgage counseling pilot program through DOB to fund at least 10 foreclosure education counseling centers in impacted communities.

SECTION 2. Requires every mortgage and assignment of a mortgage secured by 1-4 family, owner-occupied real estate in the Commonwealth to have endorsed on it the name, post office address and license number of the mortgage broker and, if applicable, the mortgage loan originator responsible for placing such mortgage loan with a mortgage lender. But, failure to include this information does not affect the validity of the mortgage.

SECTIONS 3 and 4. Encourages lenders to revise adjustable or variable rate home loans to fixed terms. Increases current lender fee from ½% to 1% of outstanding loan balance.

SECTION 5. Requires first-time homeowners purchasing a variable rate sub-prime loan to receive in-person counseling. DOB provides a list of non-profit counseling agencies from among: HUD approved counselors, housing finance agency, the Massachusetts Homeownership Collaborative or DOB or other regulatory agency. Violations of this section are enforced by prohibiting the variable rate from being charged to the borrower.

SECTIONS 6 and 7. Clarifies tenancies-at-will survive foreclosure. Provides tenant's under a lease (regardless of when entered into) protection as a legal tenant-at-will upon foreclosure. Protects low income tenant's subsidized by state or federal programs by retaining agreement.

SECTION 8. Provides a 90 day right to cure to borrowers of owner occupied family homes who have a monetary default of a mortgage payment. Specifies the content of the notice. Stops certain fees from accumulating during the cure period. Lenders are not precluded from reinstating the mortgage at a later date. DOB receives copies of notices to cure and foreclosure sale details from the lender.

SECTION 9. Removes the non-profit exemption from current licensure law for mortgage brokers/lenders. Holds non-profits to same experience and education requirements as for-profits.

SECTION 10. Amends current non-bank mortgage lender statute to add duties and reporting requirements by non-bank lenders doing more than 50 loans. As part of inspections and examinations DOB will rate lenders on lending performance to low or moderate income home borrowers and to affordable housing. DOB then evaluates the lender's performance and provides a written evaluation and descriptive rating. A poor record of performance may result in non-renewal of license.

SECTION 11. Upgrades crime for mortgage brokers/lenders operating without a license to a felony or misdemeanor. Currently only a misdemeanor.

SECTION 12. Licensure of loan originators. Any entity or person originating a mortgage loan in the commonwealth must be licensed (excludes certain banks or other exempt entities). Sets forth licensing procedures similar to chapter 255E for mortgage brokers/lenders. Employing entity must comply with DOB data reporting requirements of loan data and defaults.

SECTION 13. Foreclosure and mortgage counseling pilot program. Provides state funds for foreclosure counseling in communities with low or moderate income census tracts or communities with high rates of foreclosure. Helps formulate best practice standards for mortgage lending.

SECTION 14. Creates a foreclosure database maintained by DOB.

SECTIONS 15 and 17. Effective date of mortgage counseling and mortgage originator licensure delayed for 2 months and 7 months respectively. All other provisions of the act take effect immediately under an emergency preamble.

SECTION 16. 90 day notice to cure takes effect immediately and applies to all mortgages, but it does not affect loans that lenders have accelerated as of the effective date.