

SENATE BILL No. 627

June 28, 2007, Introduced by Senators CHERRY, JANSEN, OLSHOVE, PRUSI, SWITALSKI and WHITMER and referred to the Committee on Appropriations.

A bill to amend 1977 PA 135, entitled

"An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; and to provide remedies and penalties,"

(MCL 445.1601 to 445.1614) by amending the title, as amended by 1993 PA 43, and by adding sections 2b, 2c, and 2d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; **TO PROVIDE FOR THE COLLECTION OF AN ESTATE PRESERVATION PREMIUM; TO CREATE THE ESTATE PRESERVATION FUND AND**

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1 PROVIDE FOR THE EXPENDITURE OF THE FUND; TO PRESCRIBE THE POWERS
2 AND DUTIES OF CERTAIN STATE DEPARTMENTS AND AGENCIES; TO AUTHORIZE
3 THE PROMULGATION OF RULES; and to provide remedies and penalties.

4 SEC. 2B. (1) BEGINNING JANUARY 1, 2008, A CREDIT GRANTING
5 INSTITUTION SHALL CHARGE EACH RESIDENTIAL MORTGAGOR WHO ELECTS TO
6 PARTICIPATE IN AN ESTATE PRESERVATION PROGRAM A MONTHLY PREMIUM OF
7 \$1.00 FOR A MORTGAGE WITH A TERM OF 360 MONTHS. IF THE TERM OF THE
8 MORTGAGE IS LESS THAN 360 MONTHS, A CREDIT GRANTING INSTITUTION
9 SHALL CHARGE EACH RESIDENTIAL MORTGAGOR A MONTHLY ESTATE
10 PRESERVATION PREMIUM IN AN AMOUNT THAT WILL RESULT IN A TOTAL SUM
11 OF \$360.00 IN PREMIUM PAYMENTS OVER THE TERM OF THE MORTGAGE. IF
12 THE TERM OF THE MORTGAGE IS GREATER THAN 360 MONTHS, THE CREDIT
13 GRANTING INSTITUTION SHALL NOT CHARGE THE ESTATE PRESERVATION
14 PREMIUM AFTER THE TOTAL SUM OF \$360.00 IN ESTATE PRESERVATION
15 PREMIUMS HAS BEEN PAID. THE TOTAL AMOUNT OF ESTATE PRESERVATION
16 PREMIUMS REQUIRED TO BE PAID BY AN INDIVIDUAL WITH RESPECT TO A
17 PARCEL OF RESIDENTIAL REAL ESTATE SHALL NOT EXCEED \$360.00. IF
18 THERE ARE MULTIPLE MORTGAGORS OF A RESIDENTIAL MORTGAGE, THE ESTATE
19 PRESERVATION PREMIUM UNDER THIS SUBSECTION SHALL BE ASSESSED
20 AGAINST EACH MORTGAGOR INDIVIDUALLY.

21 (2) A CREDIT GRANTING INSTITUTION IS NOT REQUIRED TO COMPLY
22 WITH SUBSECTION (1) IF THE MORTGAGOR EXECUTES AN AFFIDAVIT ON A
23 FORM PRESCRIBED BY THE DEPARTMENT OF COMMUNITY HEALTH STATING THAT
24 THE MORTGAGOR HAS ALREADY PAID THE TOTAL SUM OF \$360.00 IN ESTATE
25 PRESERVATION PREMIUMS WITH RESPECT TO THE RESIDENTIAL REAL ESTATE.
26 THE CREDIT GRANTING INSTITUTION SHALL PROMPTLY TRANSMIT THE
27 AFFIDAVIT TO THE DEPARTMENT OF COMMUNITY HEALTH.

1 (3) IF A MORTGAGOR EXECUTES AN AFFIDAVIT ON A FORM PRESCRIBED
2 BY THE DEPARTMENT OF COMMUNITY HEALTH STATING THAT THE MORTGAGOR
3 HAS PAID TOTAL ESTATE PRESERVATION PREMIUMS IN AN AMOUNT LESS THAN
4 \$360.00 WITH RESPECT TO THE RESIDENTIAL REAL ESTATE, THE CREDIT
5 GRANTING INSTITUTION SHALL COLLECT THE BALANCE OF THE PREMIUMS IN
6 THE MANNER PRESCRIBED IN SUBSECTION (1).

7 (4) A CREDIT GRANTING INSTITUTION SHALL DEPOSIT THE ESTATE
8 PRESERVATION PREMIUMS THAT IT COLLECTS UNDER THIS SECTION INTO THE
9 ESTATE PRESERVATION FUND CREATED IN SECTION 2C.

10 SEC. 2C. (1) THE ESTATE PRESERVATION FUND IS CREATED WITHIN
11 THE STATE TREASURY.

12 (2) THE STATE TREASURER SHALL DEPOSIT MONEY RECEIVED FROM A
13 CREDIT GRANTING INSTITUTION UNDER SECTION 2B AND MAY RECEIVE AND
14 DEPOSIT MONEY OR OTHER ASSETS FROM CONTRIBUTIONS FROM ANY SOURCE
15 INTO THE ESTATE PRESERVATION FUND. THE STATE TREASURER SHALL DIRECT
16 THE INVESTMENT OF THE ESTATE PRESERVATION FUND. THE STATE TREASURER
17 SHALL CREDIT TO THE ESTATE PRESERVATION FUND INTEREST AND EARNINGS
18 FROM FUND INVESTMENTS.

19 (3) MONEY IN THE ESTATE PRESERVATION FUND AT THE CLOSE OF THE
20 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE
21 GENERAL FUND.

22 (4) THE DEPARTMENT OF COMMUNITY HEALTH SHALL BE THE
23 ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

24 (5) THE DEPARTMENT OF COMMUNITY HEALTH SHALL EXPEND MONEY FROM
25 THE ESTATE PRESERVATION FUND, UPON APPROPRIATION, FOR 1 OR MORE OF
26 THE FOLLOWING PURPOSES:

27 (A) TO FUND LONG-TERM CARE SERVICES.

1 (B) TO MAKE ANY PAYMENT REQUIRED TO BE PAID TO THE UNITED
2 STATES IN COMPLIANCE WITH SECTION 1917 OF TITLE XIX OF THE SOCIAL
3 SECURITY ACT, 42 USC 1396P.

4 SEC. 2D. (1) THE DEPARTMENT OF COMMUNITY HEALTH SHALL
5 ESTABLISH A PROGRAM THAT ALLOWS AN INDIVIDUAL WHO OWNS A POSSESSORY
6 INTEREST IN RESIDENTIAL REAL ESTATE, OTHER THAN A LESSEE INTEREST,
7 THAT IS NOT SUBJECT TO ESTATE PRESERVATION PREMIUM PAYMENTS UNDER
8 SECTION 2B TO PAY THE EQUIVALENT OF 360 MONTHLY ESTATE PRESERVATION
9 PREMIUMS INTO THE ESTATE PRESERVATION FUND ESTABLISHED IN SECTION
10 2C.

11 (2) THE DEPARTMENT OF COMMUNITY HEALTH MAY PROMULGATE RULES TO
12 IMPLEMENT THIS SECTION ACCORDING TO THE ADMINISTRATIVE PROCEDURES
13 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

14 (3) RESIDENTIAL REAL ESTATE FOR WHICH THE ESTATE PRESERVATION
15 PREMIUM HAS BEEN PAID IN FULL BY AN INDIVIDUAL IS NOT SUBJECT TO
16 ESTATE RECOVERY UNDER SECTION 1917 OF TITLE XIX OF THE SOCIAL
17 SECURITY ACT, 42 USC 1396P, UPON THE DEATH OF THE INDIVIDUAL.
18 RESIDENTIAL REAL ESTATE FOR WHICH THE ESTATE PRESERVATION PREMIUM
19 HAS NOT BEEN PAID IN FULL BY AN INDIVIDUAL AT THE TIME OF THE DEATH
20 OF THE INDIVIDUAL IS NOT SUBJECT TO ESTATE RECOVERY IF THE
21 INDIVIDUAL WAS CURRENTLY MAKING ESTATE PRESERVATION PREMIUM
22 PAYMENTS ACCORDING TO SECTION 2B OR THIS SECTION AT THE TIME OF
23 DEATH.