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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **211**

January 18, 2007

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to mortgage lending; prohibiting sale of information provided on a
1.3 mortgage application; amending Minnesota Statutes 2006, sections 13C.01, by
1.4 adding a subdivision; 58.13, subdivision 1.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 13C.01, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 3. Sale of certain information prohibited. A consumer reporting agency
1.9 may not sell to, or exchange with, a third party, any information it obtains from an
1.10 application for a mortgage loan, including the fact that the applicant applied for the
1.11 mortgage loan.

1.12 EFFECTIVE DATE. This section is effective August 1, 2007.

1.13 Sec. 2. Minnesota Statutes 2006, section 58.13, subdivision 1, is amended to read:

1.14 Subdivision 1. **Generally.** No person acting as a residential mortgage originator
1.15 or servicer, including a person required to be licensed under this chapter, and no person
1.16 exempt from the licensing requirements of this chapter under section 58.04, shall:

1.17 (1) fail to maintain a trust account to hold trust funds received in connection with a
1.18 residential mortgage loan;

1.19 (2) fail to deposit all trust funds into a trust account within three business days of
1.20 receipt; commingle trust funds with funds belonging to the licensee or exempt person; or
1.21 use trust account funds for any purpose other than that for which they are received;

1.22 (3) unreasonably delay the processing of a residential mortgage loan application,
1.23 or the closing of a residential mortgage loan. For purposes of this clause, evidence of

2.1 unreasonable delay includes but is not limited to those factors identified in section 47.206,
2.2 subdivision 7, clause (d);

2.3 (4) fail to disburse funds according to its contractual or statutory obligations;

2.4 (5) fail to perform in conformance with its written agreements with borrowers,
2.5 investors, other licensees, or exempt persons;

2.6 (6) charge a fee for a product or service where the product or service is not actually
2.7 provided, or misrepresent the amount charged by or paid to a third party for a product
2.8 or service;

2.9 (7) fail to comply with sections 345.31 to 345.60, the Minnesota unclaimed property
2.10 law;

2.11 (8) violate any provision of any other applicable state or federal law regulating
2.12 residential mortgage loans including, without limitation, sections 47.20 to 47.208;

2.13 (9) make or cause to be made, directly or indirectly, any false, deceptive, or
2.14 misleading statement or representation in connection with a residential loan transaction
2.15 including, without limitation, a false, deceptive, or misleading statement or representation
2.16 regarding the borrower's ability to qualify for any mortgage product;

2.17 (10) conduct residential mortgage loan business under any name other than that
2.18 under which the license or certificate of exemption was issued;

2.19 (11) compensate, whether directly or indirectly, coerce or intimidate an appraiser for
2.20 the purpose of influencing the independent judgment of the appraiser with respect to the
2.21 value of real estate that is to be covered by a residential mortgage or is being offered as
2.22 security according to an application for a residential mortgage loan;

2.23 (12) issue any document indicating conditional qualification or conditional approval
2.24 for a residential mortgage loan, unless the document also clearly indicates that final
2.25 qualification or approval is not guaranteed, and may be subject to additional review;

2.26 (13) make or assist in making any residential mortgage loan with the intent that the
2.27 loan will not be repaid and that the residential mortgage originator will obtain title to
2.28 the property through foreclosure;

2.29 (14) provide or offer to provide for a borrower, any brokering or lending services
2.30 under an arrangement with a person other than a licensee or exempt person, provided that
2.31 a person may rely upon a written representation by the residential mortgage originator that
2.32 it is in compliance with the licensing requirements of this chapter;

2.33 (15) claim to represent a licensee or exempt person, unless the person is an employee
2.34 of the licensee or exempt person or unless the person has entered into a written agency
2.35 agreement with the licensee or exempt person;

3.1 (16) fail to comply with the record keeping and notification requirements identified
 3.2 in section 58.14 or fail to abide by the affirmations made on the application for licensure;

3.3 (17) represent that the licensee or exempt person is acting as the borrower's agent
 3.4 after providing the nonagency disclosure required by section 58.15, unless the disclosure
 3.5 is retracted and the licensee or exempt person complies with all of the requirements of
 3.6 section 58.16;

3.7 (18) make, provide, or arrange for a residential mortgage loan that is of a lower
 3.8 investment grade if the borrower's credit score or, if the originator does not utilize credit
 3.9 scoring or if a credit score is unavailable, then comparable underwriting data, indicates
 3.10 that the borrower may qualify for a residential mortgage loan, available from or through
 3.11 the originator, that is of a higher investment grade, unless the borrower is informed that
 3.12 the borrower may qualify for a higher investment grade loan with a lower interest rate
 3.13 and/or lower discount points, and consents in writing to receipt of the lower investment
 3.14 grade loan.

3.15 For purposes of this section, "investment grade" refers to a system of categorizing
 3.16 residential mortgage loans in which the loans are: (i) commonly referred to as "prime" or
 3.17 "subprime"; (ii) commonly designated by an alphabetical character with "A" being the
 3.18 highest investment grade; and (iii) are distinguished by interest rate or discount points
 3.19 or both charged to the borrower, which vary according to the degree of perceived risk
 3.20 of default based on factors such as the borrower's credit, including credit score and
 3.21 credit patterns, income and employment history, debt ratio, loan-to-value ratio, and prior
 3.22 bankruptcy or foreclosure;

3.23 (19) make, publish, disseminate, circulate, place before the public, or cause to be
 3.24 made, directly or indirectly, any advertisement or marketing materials of any type, or any
 3.25 statement or representation relating to the business of residential mortgage loans that is
 3.26 false, deceptive, or misleading;

3.27 (20) advertise loan types or terms that are not available from or through the licensee
 3.28 or exempt person on the date advertised, or on the date specified in the advertisement.
 3.29 For purposes of this clause, advertisement includes, but is not limited to, a list of sample
 3.30 mortgage terms, including interest rates, discount points, and closing costs provided by
 3.31 licensees or exempt persons to a print or electronic medium that presents the information
 3.32 to the public;

3.33 (21) use or employ phrases, pictures, return addresses, geographic designations, or
 3.34 other means that create the impression, directly or indirectly, that a licensee or other
 3.35 person is a governmental agency, or is associated with, sponsored by, or in any manner
 3.36 connected to, related to, or endorsed by a governmental agency, if that is not the case; ~~or~~

- 4.1 (22) violate section 82.49, relating to table funding; or
- 4.2 (23) sell to or exchange with third parties personal information contained in an
- 4.3 application for a mortgage loan, including the fact that the applicant applied for the
- 4.4 mortgage loan.

4.5 **EFFECTIVE DATE.** This section is effective August 1, 2007.