

LEGISLATIVE BULLETIN

Mortgage Bankers Association of Georgia
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February 23, 2008

There have been several bills introduced in this 2008 session of the Georgia General Assembly, which will have substantial impacts on mortgage lending in Georgia. Rick Floyd, MBAG president, Debbie Pennington, legislative chairperson, Richard Raymer, general counsel, and Mo Thrash, MBAG lobbyist, are all closely following these bills attempting to minimize any adverse effects on the mortgage lending industry in Georgia.

CREDIT REPORT FREEZE-SB 361 and HB 130

The Senate has already passed this Bill. The House Bill, which has not come before the House for a vote, is substantially similar with the primary difference being the fee to be charged to the consumer for placing or lifting a credit report freeze. Both bills allow a consumer to freeze or unfreeze his or her consumer credit report by paying either a \$3.00 fee per transaction under SB 361 or a fee to be determined by the Department of Banking and Finance per HB 130. The credit reporting agency must freeze the consumer's report within three business days after receiving the written request for the freeze. The consumer will be issued a personal identification number or password provided by the consumer credit reporting agency. If the consumer wishes to temporarily unfreeze his or her account, the consumer reporting agency must do so within 15 minutes after having received the request by telephone or other electronic means chosen by the credit reporting agency and payment of the required fee.

Security freezes will not apply to the following:

1. Anyone with whom the consumer had a prior account, contract, or debtor-credit relationship for the purposes of reviewing the active account or collecting the financial obligation owing for the account, contract, or debt.
2. Any depository financial institution for checking, savings, and investment accounts.
3. Federal, state and local government agencies and entities including law enforcement agencies.
4. Credit reporting monitoring services to which the consumer has subscribed.
5. Any party to whom the consumer has granted permission pursuant to the lifting of the credit reporting freeze.
6. Any person acting pursuant to a court order, warrant, or subpoena.

The credit reporting agencies must be able to allow consumer to begin freezing their consumer reports by August 1, 2008. MBAG supports these bills.

GOOD FUNDS FOR CLOSINGS-SB 355 AND HB 918

These bills would require collected funds be in a closing attorney's escrow account prior to any disbursements from that account. Under SB 355, cashier's checks, certified checks, or treasurer's checks of a federally insured bank, savings bank, savings and loan association or credit union and issued by a lender for a closing or loan transaction provided that such funds are immediately available and cannot be dishonored or refused when negotiated or presented for payment would be sufficient for disbursement by the settlement agent even though they are not technically collected funds. HB 918, as originally drafted, would not allow any exceptions from the collected funds requirement so that cashier's checks etc. would not be sufficient to allow disbursement by the settlement agent. The House bill may possibly be amended also to allow

the exceptions similar to the Senate bill for cashier's checks etc.

Also excepted from the collected funds requirement for disbursement:

1. A check or checks in an aggregate amount not exceeding \$5,000.
2. A check drawn on the escrow account of an attorney licensed to practice law in Georgia or on the escrow account of a licensed Georgia real estate broker.
3. A check issued by the United States of America or any agency thereof or the State of Georgia or any agency of political subdivision thereof.

MBAG opposed the allowing of cashier's checks and other bank related checks which are not collected funds unless mortgage bankers loan funding checks were also allowed as an exception to the collected funds rule.

FORECLOSURE BILL-SB 459

This bill would change the notice of foreclosure advertisements from the present requirement of four consecutive weeks to ten weeks thus lengthening the foreclosure process by an additional six weeks. This bill has been referred to the Senate Judiciary Committee. MBAG opposes this bill.

FORECLOSURE BILL-SB 465

This bill would require a notice of the initiation of foreclosure proceedings no later than 90 days before the date of the proposed foreclosure. This provision would not apply to foreclosures for which advertising has already begun. This provision also would be applicable only through December 31, 2010. This bill has been referred to the Bank and Financial Institutions Committee. MBAG opposes this bill.

REVISION OF THE GEORGIA FAIR LENDING ACT-SB 475

Senator Fort has filed this 20 page Bill which is the same as the first Georgia Fair Lending Act that almost halted mortgage lending in Georgia. Assignee liability is reinstated along with the "Covered Loan" category requiring a net tangible benefit. A loan would be considered a "Covered Loan" if the total points and fees, excluding not more than two bona fide discount points, exceed three percent of the total loan amount. The points and fees would include yield spread premiums. Needless to say, this bill would be as unworkable now as it was when the original law passed under Governor Barnes. MBAG opposes this bill.

If you have any questions about any item in this bulletin, please call Richard Raymer or Mo Thrash at (678) 281-6500.