House
Legislative
Analysis
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HOME LENDING INFORMATION

House Bill 4423 with committee amendment
House Bill 4424 as introduced
First Analysis (3-16-93)

Sponsor: Rep. Raymond M. Murphy
Committee: Business & Finance

THE APPARENT PROBLEM:

Public Act 135 of 1977 prohibits certain mortgage lending practices by credit-granting institutions in the state and requires them to disclose certain mortgage information annually to the Financial Institutions Bureau (FIB). Also, Public Act 105 of 1855 provides for the deposit of state surplus funds into state financial institutions, and requires financial institutions to report certain information to the FIB in order to qualify to receive state surplus funds for deposit. With enactment of the Federal Home Mortgage Disclosure Act in 1990, however, depository institutions that are federally insured must submit similar data to federal officials for them to analyze. Generally, the data required under the federal act is more extensive than that required by state law. When the federal law was enacted, Michigan found itself in the midst of a severe recession and massive budget deficit that required it to slash expenditures, which affected every state department and agency including the Financial Institutions Bureau. With less general appropriation dollars to operate with, the bureau was forced to slash its own budget. Among other things, the bureau eliminated 5 FTE positions that reviewed the data submitted by financial institutions regarding their lending activities as this was now being done at the federal level. However, financial institutions are still required by state law to submit this data to the FIB, as well as to federal regulators. To eliminate the work and expense of submitting this data twice, it has been suggested that the state reporting requirements be eliminated as long as institutions are subject to and in compliance with the federal act.

THE CONTENT OF THE BILLS:

The bills would amend Public Act 135 of 1977 and Public Act 105 of 1855 to delete provisions in both acts that require credit-granting institutions to disclose certain information to the FIB and, instead, would require them to file an affidavit with the FIB that said they were subject to the Federal Home Mortgage Disclosure Act and had complied with its provisions. Neither bill could be enacted unless both were.

House Bill 4423 would amend Public Act 135 of 1977 (MCL 445.1602 et al.) to delete provisions that require a credit-granting institution to file a report containing lending information to the FIB within 90 days after the close of its fiscal year. (This report must include information relative to mortgage and home improvement loans over the past year, such as how many were applied for, the total dollar amount of loans granted, and similar data.) Instead, the bill specifies that on or before March 31 of each year a credit-granting institution would have to file with the FIB commissioner an affidavit stating whether it was subject to the Federal Home Mortgage Disclosure Act and, if so, that it had complied with that act's requirements and regulations promulgated under it.

Credit granting institutions currently are prohibited from imposing minimum mortgage amounts greater than $5,000, or minimum home improvement loan amounts greater than $500. The bill would raise these minimum mortgage and home improvement loan amounts to $10,000 and $1,000, respectively.

The act currently requires the commissioner to report to the governor and legislature on the enforcement of the act, and requires the report to include findings on mortgage lending activities based on a review of data disclosed to the FIB by financial institutions and on the FIB's enforcement activities. The bill would delete these provisions from the act and instead specifies that the commissioner would have to annually appear before the House committees charged with overseeing civil rights, women's issues, housing, and urban affairs to give

testimony, answer questions and provide information regarding the enforcement of the act. The commissioner would have to include a written report, which would have to be made available to the public upon request, that summarized the actions taken in the previous year to achieve the act's purposes.

The bill also would delete obsolete language that expired on January 1, 1983, which authorized the FIB commissioner to establish "mandatory mortgage review boards" and authorized these boards to review mortgage and home-related lending practices in certain urban areas of the state.

House Bill 4424 would amend Public Act 105 of 1855 (MCL 21.145 and 21.147) to delete provisions that require certain financial institutions (those with total assets of over $10 million that wish to receive state surplus funds for deposit) to file with the FIB commissioner, either voluntarily or pursuant to Public Act 135 of 1977, the disclosure reports required under Public Act 135 and other data on mortgage and home improvement loan activities in the institution's previous fiscal year. Instead, such a financial institution would have to file with the commissioner on or before March 31 of each year an affidavit stating whether it was subject to the Federal Home Mortgage Disclosure Act and, if so, that it had complied with requirements of that act and regulations promulgated under it.

The act currently defines a "financial institution" as a state or nationally chartered bank, a state or federally chartered savings and loan association, or a state or federally chartered credit union. The bill would include within this definition a "state or federally chartered savings bank."

FISCAL IMPLICATIONS:

The Financial Institutions Bureau says the bills would not affect state or local budget expenditures. (As already noted, due to state budget constraints over the last two years the FIB was forced to abolish 5 FTE positions in 1991 that formerly reviewed data submitted by financial institutions concerning their mortgage lending practices.) (3-12-93)

ARGUMENTS:

For:

The bills simply would delete language from Public Act 135 of 1977 and Public Act 105 of 1855 that requires credit-granting institutions to report annually to the Financial Institutions Bureau information regarding their home mortgage and home improvement loan lending practices. This information is reviewed to make sure that discriminatory lending practices prohibited by law are not occurring anywhere in the state, particularly in low-income and urban areas where past evidence has shown such activities to be more prevalent. Because the FIB no longer reviews this data, as this is being done by federal regulators pursuant to the Federal Home Mortgage Disclosure Act which was enacted in 1990, financial institutions are merely wasting time and money by submitting the data twice. The bills provide that if such institutions were subject to and complying with the Federal Home Mortgage Disclosure Act, they merely would need to submit an affidavit to the FIB stating that this was so. And because all depository financial institutions in Michigan are federally insured, it is expected that they all are reporting this information to federal regulators.

For:

House Bill 4423 as amended in the House Business and Finance Committee would require the Banking Commissioner to annually appear before the House committees that oversee civil rights, women's issues, housing, and urban affairs to testify regarding how the act was being enforced by it. Thus, any concerns that legislators or other citizens have regarding mortgage lending practices could be raised in public.

Response:

The bill should be amended to require the commissioner to appear before appropriate committees composed of members from both the House of Representatives and the Senate.

For:

House Bill 4423 would raise the minimum amounts that financial institutions are allowed to impose on mortgages and home improvement loans from

$5,000 and $500 to $10,000 and $1,000, respectively. These minimum amounts have not been raised since 1977 when Public Act 135 was enacted, and should be raised to account for the effects of inflation since then. In fact, the amounts suggested are lower than what they would be if they actually were indexed to inflation since 1977.

POSITIONS:

The Financial Institutions Bureau supports the bills. (3-12-93)

The Michigan Bankers Association supports the bills. (3-10-93)

The Michigan Credit Union League supports the bills. (3-10-93)

The Michigan League of Savings Institutions supports the bills. (3-10-93)

NBD Bank, N.A., (of Detroit) supports the bills. (3-12-93)

Comerica Bank, of Detroit, supports the bills. (3-12-93)