Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 534 (Substitute S-1 as passed by the Senate)
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Sponsor: Senator Michael J. Bouchard
Committee: Financial Services

Date Completed: 10-13-95

RATIONALE

Reportedly, some Michigan lenders that require mortgagors to maintain property/casualty insurance as a condition of a loan have demanded coverage in the amount of the mortgage, even if the mortgage amount is greater than the replacement cost of the building or buildings being mortgaged. For example, if a consumer buys a piece of property that costs $50,000 and builds a home on that parcel at a cost of $100,000, he or she might seek a mortgage loan of 80% of the total cost, or $120,000. The mortgage amount in this instance exceeds the cost of the structure, but the mortgagee might require insurance that covers the full amount of the mortgage. Some people believe that this is unnecessary and that required insurance coverage amounts should be based on the cost of replacing a structure, not on the amount of a mortgage loan. They suggest prohibiting lenders from requiring insurance coverage of more than the replacement cost of the building or buildings, except when that level of coverage is a condition of the sale of a mortgage from one mortgagee to another.

CONTENT

Senate Bills 534 (S-1), 535 (S-1), 536 (S-1), and 537 (S-1) would amend various acts to specify that a lender that required a mortgagor to maintain property/casualty insurance as a condition to receiving a mortgage loan could not require the amount of the property/casualty insurance to be greater than the replacement cost of the mortgaged building or buildings. A lender could require, however, an amount of property/casualty insurance that was required of the lender as a condition of sale, transfer, or assignment of all or part of the mortgage to a third party. The bills would not require that a lender anticipate a sale, transfer, or assignment at the time the mortgage loan was made.

Senate Bill 534 (S-1) would amend Public Act 135 of 1977, which regulates mortgage lending practices, and would apply to a "credit granting institution". ("Credit granting institution", under that Act, means a State- or nationally chartered bank, a State- or Federally chartered savings and loan association, a State- or Federally chartered credit union, the Michigan State Housing Development Authority, or a business entity making or purchasing mortgage loans, that has a main office, branch office, or service center doing business within Michigan.) Senate Bill 535 (S-1) would amend the Banking Code and would apply to a bank. Senate Bill 536 (S-1) would amend the Savings and Loan Act and would apply to an "association" or "federal association". ("Association", under that Act, means a domestic savings and loan association or domestic savings bank; "federal association" means a corporate organization that transacts business pursuant to authority granted under the Federal Home Owners' Loan Act, with its principal office located in Michigan.) Senate Bill 537 (S-1) would amend the credit union Act and would apply to a credit union.

Proposed MCL 445.1602a (S.B. 534)
Proposed MCL 487.451i (S.B. 535)
Proposed MCL 491.702a (S.B. 536)
Proposed MCL 490.16b (S.B. 537)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills would offer a degree of protection to consumers by prohibiting lenders from requiring mortgagors to pay needlessly high property insurance premiums. If the land is a large part of the value of a mortgaged property, it makes little sense to require insurance coverage on the entire amount of the loan, rather than on the replacement value of the mortgaged building. All a home owner really needs to insure to protect the lender and himself or herself is the replacement value of the house. In the event of a fire or other type of property destruction, the value of the land is retained, so only the value of the building or buildings on that land should require insurance coverage.

Opposing Argument

The bills' provision that would allow insurance coverage amounts required as a condition of the sale of a mortgage seems to undermine the proposed prohibition against requiring coverage in excess of the replacement cost of the mortgaged building or buildings.

Response: Mortgages are sometimes sold by one lender to another, and the transaction may occur between lenders operating in different states. A Michigan statutory limit on the amount of required coverage could not be enforced against a third-party lender of another state that bought a Michigan mortgage. To avoid discouraging these sales between financial operators, the bills would continue to allow a Michigan lender to require an amount of insurance coverage required as a condition of the sale of a mortgage.

Legislative Analyst: P. Affholter

FISCAL IMPACT

These bills would not affect the fiscal requirements or the borrowing or lending activities and programs of the Department of Commerce or of local governmental units.

Fiscal Analyst: K. Lindquist

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