

SUBSTITUTE FOR
HOUSE BILL NO. 5296

A bill to amend 2002 PA 660, entitled
"Consumer mortgage protection act,"
by amending section 5 (MCL 445.1635).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. ~~A mortgage loan with a term of less than 5 years shall~~
2 ~~not have a payment schedule with regular periodic payments that~~
3 ~~when aggregated do not fully amortize the outstanding principal~~
4 ~~balance. This section does not apply to loans with maturities of~~
5 ~~less than 1 year, if the purpose of the loan is a "bridge" loan~~
6 ~~connected with the acquisition or construction of a dwelling~~
7 ~~intended to become the borrower's principal dwelling. IN ADDITION~~
8 ~~TO THE OTHER REQUIREMENTS OF THIS ACT, A HIGH-COST HOME LOAN IS~~
9 ~~SUBJECT TO THE FOLLOWING ADDITIONAL LIMITATIONS AND PROHIBITED~~
10 ~~PRACTICES:~~

11 (A) A CREDITOR SHALL NOT DIRECTLY OR INDIRECTLY FINANCE ANY

1 POINTS OR FEES IN EXCESS OF 2% OF THE LOAN AMOUNT IN CONNECTION
2 WITH A HIGH-COST HOME LOAN.

3 (B) A CREDITOR SHALL NOT INCLUDE IN THE LOAN DOCUMENTS FOR A
4 HIGH-COST HOME LOAN OR CHARGE A BORROWER IN A HIGH-COST HOME LOAN
5 ANY PREPAYMENT FEES OR PENALTIES.

6 (C) A HIGH-COST HOME LOAN SHALL NOT CONTAIN A SCHEDULED
7 PAYMENT THAT IS MORE THAN TWICE AS LARGE AS THE AVERAGE OF EARLIER
8 SCHEDULED PAYMENTS. THIS SUBDIVISION DOES NOT APPLY WHEN THE
9 PAYMENT SCHEDULE IS ADJUSTED TO THE SEASONAL OR IRREGULAR INCOME OF
10 THE BORROWER.

11 (D) A HIGH-COST HOME LOAN SHALL NOT INCLUDE PAYMENT TERMS
12 UNDER WHICH THE OUTSTANDING PRINCIPAL BALANCE OR ACCRUED INTEREST
13 WILL INCREASE AT ANY TIME OVER THE COURSE OF THE LOAN BECAUSE THE
14 REGULARLY SCHEDULED PERIODIC PAYMENTS DO NOT COVER THE FULL AMOUNT
15 OF INTEREST DUE.

16 (E) A HIGH-COST HOME LOAN SHALL NOT CONTAIN A PROVISION THAT
17 INCREASES THE INTEREST RATE AFTER DEFAULT. THIS SUBDIVISION DOES
18 NOT APPLY TO INTEREST RATE CHANGES IN A VARIABLE RATE LOAN
19 OTHERWISE CONSISTENT WITH THE PROVISIONS OF THE LOAN DOCUMENTS, IF
20 THE CHANGE IN THE INTEREST RATE IS NOT TRIGGERED BY THE EVENT OF
21 DEFAULT OR THE ACCELERATION OF THE INDEBTEDNESS.

22 (F) A HIGH-COST HOME LOAN SHALL NOT INCLUDE TERMS UNDER WHICH
23 MORE THAN 2 PERIODIC PAYMENTS REQUIRED UNDER THE LOAN ARE
24 CONSOLIDATED AND PAID IN ADVANCE FROM THE LOAN PROCEEDS PROVIDED TO
25 THE BORROWER.

26 (G) A CREDITOR SHALL NOT MAKE A HIGH-COST HOME LOAN WITHOUT
27 FIRST RECEIVING CERTIFICATION FROM A COUNSELOR FROM AN INDEPENDENT

1 NONPROFIT ORGANIZATION APPROVED BY THE UNITED STATES DEPARTMENT OF
2 HOUSING AND URBAN DEVELOPMENT, BY A STATE HOUSING FINANCING AGENCY,
3 OR BY THE REGULATORY AGENCY THAT HAS JURISDICTION OVER THE
4 CREDITOR, THAT THE BORROWER HAS RECEIVED COUNSELING ON THE
5 ADVISABILITY OF THE LOAN TRANSACTION. A COUNSELOR OR COUNSELING
6 AGENCY THAT IS AFFILIATED WITH A MORTGAGE BROKER OR MORTGAGE
7 LENDER, AS THOSE TERMS ARE DEFINED IN SECTION 1A OF THE MORTGAGE
8 BROKERS, LENDERS, AND SERVICERS LICENSING ACT, 1987 PA 173, MCL
9 445.1651A, IS NOT CONSIDERED AN INDEPENDENT NONPROFIT ORGANIZATION
10 FOR PURPOSES OF THIS SUBSECTION.

11 (H) A CREDITOR SHALL NOT PAY A CONTRACTOR UNDER A HOME-
12 IMPROVEMENT CONTRACT FROM THE PROCEEDS OF A HIGH-COST HOME LOAN,
13 UNLESS THE INSTRUMENT IS PAYABLE TO THE BORROWER OR JOINTLY TO THE
14 BORROWER AND THE CONTRACTOR OR, AT THE ELECTION OF THE BORROWER,
15 THROUGH A THIRD-PARTY ESCROW AGENT IN ACCORDANCE WITH TERMS
16 ESTABLISHED IN A WRITTEN AGREEMENT SIGNED BY THE BORROWER, THE
17 CREDITOR, AND THE CONTRACTOR BEFORE THE DISBURSEMENT.

18 (I) A CREDITOR SHALL NOT CHARGE A BORROWER A FEE OR OTHER
19 AMOUNT TO MODIFY, RENEW, EXTEND, OR AMEND A HIGH-COST HOME LOAN OR
20 TO DEFER ANY PAYMENT DUE UNDER THE TERMS OF A HIGH-COST HOME LOAN.

21 (J) A HIGH-COST HOME LOAN DOCUMENT THAT CREATES A DEBT OR AN
22 INTEREST IN PROPERTY TO SECURE A DEBT SHALL INCLUDE THE FOLLOWING
23 NOTICE, PRINTED CONSPICUOUSLY ON THE FACE OF THE DOCUMENT:

24 "NOTICE: THIS IS A HIGH-COST HOME LOAN SUBJECT TO SPECIAL
25 RULES UNDER STATE LAW. A PURCHASER OR ASSIGNEE OF THIS HIGH-COST
26 HOME LOAN MAY BE LIABLE FOR ALL CLAIMS AND DEFENSES OF THE BORROWER
27 WITH RESPECT TO THE HOME LOAN."

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 94th Legislature are
3 enacted into law:

- 4 (a) House Bill No. 5294.
- 5 (b) House Bill No. 5295.
- 6 (c) House Bill No. 5297.
- 7 (d) House Bill No. 5299.
- 8 (e) House Bill No. 5300.
- 9 (f) House Bill No. 5301.
- 10 (g) House Bill No. 5302.
- 11 (h) House Bill No. 5303.