

## **Minnesota's Anti-Predatory Mortgage Lending Law**

Minnesota boasts the strongest anti-predatory mortgage lending law in the country. The 2007 Legislature enacted two bills that, together, form a comprehensive package of protection and enforcement tools to protect homeowners from unscrupulous and predatory mortgage lending practices. The following presents the highlights of the law.

### **Lenders and Brokers Must Verify the Borrower's Ability to Repay**

Lenders and mortgage brokers must:

- Make sure that borrowers can afford the payment when the teaser rate expires.
- Verify a borrower's income, effectively eliminating "no document" or "stated income loans"

### **Lenders and Brokers Have a "Duty of Agency"**

- Lenders and mortgage brokers are now considered agents of the borrower, meaning, among other things, the lender or broker must always act in the borrower's best interests.

### **Kickbacks from the Lender to the Broker Counted as Lender Fees**

- A mortgage broker can receive a side payment from a lender, often for getting the borrower to agree to a higher interest rate than the rate for which the borrower qualifies. The lender pays this compensation directly to the broker, but the borrower is the one who bears the ultimate cost through the higher interest rate they're paying.
- Payments from the lender to the broker, as well as other closing costs, are now counted toward the 5% cap that the law places on fees that can be financed into the loan.

### **"Churning" Prohibited**

- "Churning" is repeated refinancings that do not benefit the borrower. Under the new law A mortgage broker or lender can't provide a loan to a borrower that refinances an existing loan unless the new loan provides a "net reasonable tangible benefit" to the borrower considering all of the circumstances.

### **"Negative Amortization" Prohibited**

- A loan cannot be made to a borrower if the monthly payments do not at least cover the interest payments.

### **Prepayment Penalties Banned**

- A subprime loan cannot be made to a borrower if it contains a prepayment penalty, which requires the borrower to pay substantial amount of money if the borrower pays the loan off early (within a specified number of years after the initiation of the loan).

### **Refinancing "Special Mortgages" Without Counseling Prohibited**

- Loans such as those provided by a nonprofit or government agency with especially favorable terms (i.e., the interest rate is 2% or less, the loan is forgivable, the loan is a no interest loan, or it only repayable when the house is sold) cannot be refinanced unless the borrower receives certification from a certified housing counseling agency that the borrower has discussed the refinancing with a housing counselor.

### **Strong Enforcement Tools Ensure That Victims Have an Adequate Remedy**

- Borrowers have a right to sue for damages, costs, and attorneys' fees if a broker or lender has violated the law.
- Lenders or brokers who give loans that is based on fraud or that contains information the broker or lender knew was false can be criminally prosecuted and go to jail for up to two years.

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