SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2380

SPONSOR: Banking and Insurance Committee and Senator Clary

SUBJECT: Consumer Protection (Florida Fair Lending Act)

DATE: March 5, 2002 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Deffenbaugh	Deffenbaugh	BI	Favorable/CS
2.				
3.				
4.				
5.				
6.				

I. Summary:

Since the mid-1990's, the sub-prime mortgage market has grown substantially, providing access to credit to borrowers with less than perfect credit and who are not served by prime lenders. With this increase in sub-prime lending there has also been an increase in reports of "predatory lending." This term generally refers to abusive lending practices involving fraud, deception or unfairness.

CS/SB 2380 imposes requirements on high cost mortgage loans that mirror most of the requirements of the federal Home Ownership and Equity Protection Act (HOEPA), but adds other restrictions. These requirements would be enforced by the Department of Banking and Finance and would apply to high cost mortgage loans that charge interest or points that exceed the same triggers as provided in HOEPA.

For such high cost mortgage loans, the act would provide the following:
- Prepayment penalties within the first 3 years are prohibited, with exceptions (compared to 5 years under HOEPA).
- Balloon payments are prohibited.
- Negative amortization schedules are prohibited (where interest payments do not reduce the principal).
- The interest rate may not be increased after default.
- No more than 2 payments may be consolidated and paid in advance from the loan proceeds.
- Lenders of high cost loans must provide certain disclosures to borrowers, including notice that the borrower should consider consulting a qualified independent credit counselor.

- High-cost home loans may not be made without regard to the borrower's ability to repay the loan.
- Payments under home improvement contracts may not be made directly to the contractor.
- The lender may not call or accelerate the indebtedness, except for fraud, material misrepresentation, the consumer defaults on the loan, or actions that affect the lender's security interest.
- The lender must deliver to the borrower all loan documents and disclosures at least 72 hours before the closing (not in HOEPA)
- The lender may not offer or sell a high cost home loan at the residence of the borrower, without an appointment or invitation (not in HOEPA).

In effect, the department would be granted authority to enforce current federal law, which it currently does not have. However, the bill imposes tighter restrictions on prepayment penalties than HOEPA and adds disclosure requirements.

This bill also broadly preempts local government rules or ordinances pertaining to the financial or lending activities of persons who are subject to the jurisdiction of the Department of Banking and Finance or any one of specified federal agencies, or who originate, purchase, sell, assign securitize or service property interests or obligations created by financial transactions or loans made by such persons. Although no local ordinance exists at this time, the city of Miami is considering such.

There does not appear to be a fiscal impact to the Department of Banking and Finance which is states it can enforce the act's provisions within current resources, nor does the bill appear to impose any significant costs on the private sector, due to substantial conformity with current federal requirements.

This bill creates undesignated sections of the Florida Statutes.

II. Present Situation:

Background: Sub-Prime Lending and "Predatory" Lending

According to the Federal Reserve Board, since the mid-1990's, the sub-prime mortgage market has grown substantially, providing access to credit to borrowers with less than perfect credit and who are not served by prime lenders. With this increase in sub-prime lending there has also been an increase in reports of "predatory lending." This term generally refers to abusive lending practices involving fraud, deception or unfairness.[1] Some abusive practices are clearly unlawful under existing laws, such as falsifying the applicant's income, forging signatures on blank documents, or charging fees that are not disclosed. Some practices, such as balloon payments, may benefit some borrowers but harm others, particularly if they are not fully aware of the consequences. Still other unfair practices are difficult (or some would argue unwise) to regulate, such as charging excessive interest or fees, or adding costly insurance premiums.

[1] Report to the Board of Governors of the Federal Reserve System from the Board's Division of Consumer and Community Affairs, "Amendments to Regulation Z addressing concerns related to predatory practices in mortgage lending," (Nov. 27, 2001).

Some of the practices that have been identified as predatory lending include: making unaffordable loans based solely on the borrower's home equity without regard to the borrower's ability to repay the loan; inducing a borrower to refinance a loan repeatedly, even though the refinancing may not be in the borrower's interest, and charging high points and fees each time the loan is refinanced ("loan flipping"); and engaging in fraud or deception to conceal the true nature of the loan obligation, such as financing credit insurance without the consumers' consent. Some consumer advocates charge that excessive interest rates and fees are themselves elements of predatory practices.

Sub-prime lending typically includes interest rates several percentage points above the prime rates reserved for borrowers with clean credit histories. Also, its typical to see points or fees equal to 5 to 7 percent of the loan, as compared to the 2 percent fees charged by mainstream mortgage lenders. According to lenders, this is necessary to compensate them for the increased risk that they incur. Sub-prime lending permits borrowers, who otherwise would not be able to borrow money for a home, access to the market. Rather than discourage the sub-prime market, the Federal Deposit Insurance Corporation (FDIC) believes safe and sound, well-managed sub-prime lending programs, with appropriate capitalization and loan pricing, provide an important source of credit for borrowers whose credit history may not permit them to qualify for the conventional "prime" loan market.[2] Some financial institutions have decided not to make loans in the sub-prime market. For example, Bank of America announced in 2001 that it was pulling out of this market.

Federal Law: Home Ownership and Equity Protection Act of 1994 (HOEPA)

In response to concerns about abusive practices in connection with sub-prime mortgage loans, in 1994 the Congress enacted the Home Ownership and Equity Protection Act (HOEPA), which amended the Truth in Lending Act. HOEPA seeks to protect homeowners from loan agreements that are likely to result in default and the loss of their homes by requiring additional disclosures and prohibiting certain loan terms, such as balloon payments for short-term loans and non-amortizing payment schedules, and restricting prepayment penalties. The act applies to home mortgage loans, but does *not* cover loans to purchase homes. That is, home-equity loans and refinancings are covered, but not the original mortgage loan to purchase the home.

Interest rate or fee trigger for covered loans - HOEPA does not limit the interest rate or points that a lender may charge, but sets triggers based on a loan's interest rate or its points and fees to determine whether a loan is a "high cost" loan that is covered under the act. The Federal Reserve Board ("Fed") is authorized to adjust these triggers within specified limits and, for all mortgage loans, to prohibit acts or practices that are unfair, deceptive, or designed to evade HOEPA. In December 2001, the Fed approved new rules (to Regulation Z) which will take effect next October. As revised by these rules, more loans will be covered. A high cost loan covered by HOPEA, for a *first* mortgage lien, has an *interest rate 8 percentage points above comparable Treasury securities* (reduced by the Fed from the 10-point trigger in the act). For example, a 10-year loan would be considered high cost at today's rates (about 5% for 10-year Treasury

[2] Source: http://www2.fdic.gov/epc/predlend/Regulation/AllSections.asp?anc=ReturnHow

securities) if the rate is above about 13 percent. For *second* liens mortgages, the trigger is *10 percentage points above Treasury securities* (which was not changed by the Fed rules).

Under the fee based trigger, a loan is covered by HOEPA if the total points and fees exceed 8 percent of the loan amount or $400, whichever is greater, adjusted annually based on the Consumer Price Index since 1994, which is $465 for 2001 and $480 for 2002. The Fed rules modified the trigger by including credit insurance and other debt-protection products financed through the loan.

Required disclosures - Creditors offering high cost loans that exceed the trigger must give consumers an abbreviated disclosure statement at least 3 business days before the loan is closed. These disclosures inform consumers that they are not obligated to complete the transaction and could lose their home if they take the loan and fail to make payments. It also provides a few key items of cost information including the APR. The Fed rules enhanced the disclosures to alert consumers to the total amount borrowed, which may be substantially higher than the loan amount requested by the borrower due to the financing of insurance, points, and fees. The disclosure must specify whether the total amount borrowed includes the cost of optional insurance.

Prohibited loan terms - HOEPA restricts certain loan terms for high cost loans. Prepayment penalties after 5 years are prohibited, but allowed within the 5 five years under certain conditions. Also, balloon payments are prohibited in high cost loans that have a term of less than 5 years. The act also prohibits non-amortizing payment schedules (which involve small monthly payments that cause an increase in the total debt), and higher interest rates upon default.

Consideration of Consumer's Ability to Repay - HOEPA prohibits lenders from engaging in a pattern or practice of extending credit to consumers based on the consumers' collateral without regard to the consumers' ability to repay the loans. The rules strengthened these provisions by creating a presumption that a creditor has violated this statutory prohibition, if the creditor generally does not verify and document consumers' repayment ability.

Loan Flipping - The Fed rules address "loan flipping" within the first 12 months of a HOEPA high cost loan. A creditor that has made a HOEPA loan to a borrower in the preceding 12 months is generally prohibited from refinancing another HOEPA loan to the same borrower. A creditor would be permitted to make such a loan if it is "in the borrower's interest."

Open-end loans - The Fed rules attempt to prevent evasions of HOEPA, which only covers closed-end loans, by prohibiting a creditor from wrongfully documenting them as open-end credit. For example, a high cost mortgage could not be structured as a home-secured line of credit if there is not reasonable expectation that repeat transactions will occur under a reusable line of credit.

Due-on-Demand - To ensure that lenders do not accelerate the payment of HOEPA loans without cause, the rules prohibit a creditor from exercising "due-on-demand" or "call" provisions in a HOEPA loan, unless the clause is exercised in connection with the consumer's default.

Other Federal Lending Laws

In addition to HOEPA, the Congress has enacted many Acts designed to provide standards and practices for extending credit to consumers for the purchase of residences and other consumer goods. Some acts include the Truth in Lending Act (TILA), the Home Mortgage Disclosure Act (HMDA), the Real Estate Settlement Procedures Act (RESPA), the Fair Housing Act (FHA), and the Equal Credit Opportunity Act (ECOA), and the Community Reinvestment Act (CRA).

The TILA requires creditors to disclose credit terms and the cost of consumer credit as an annual percentage rate. The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling.

The HMDA, first enacted in 1975, requires lending institutions to report public loan data to assist the public and government agencies: in determining whether financial institutions are serving the needs of their communities, in distributing public dollars so as to attract private investment in underserved areas, and in identifying possible discriminatory lending patterns.

The RESPA was enacted in 1974 to provide consumers with disclosure about closing costs and to prohibit unearned fees (kickbacks/referral fees).

The FHA was passed as part of the Civil Rights Act of 1968, and prohibits the refusal to sell, rent, or negotiate for the sale or rental of housing for reason of race, color, religion, sex, handicap, familial status (if a household includes children), and national origin.

The ECOA prohibits discrimination in all personal and commercial credit transactions based on race, color, religion, national origin, sex, marital status, age, and other bases. The ECOA is broader than the FHA since the ECOA covers virtually all lenders while the FHA covers only real estate-related lending. Housing lenders are subject to both statutes.

The CRA requires the banking agencies to consider a depository institution's efforts to meet the needs of its community when it applies to the banking agencies for permission to expand. As currently interpreted by the agencies, this has meant that a bank's fair lending performance is weighed when considering such an application.

Florida Laws Regulating Lenders

The Florida Department of Banking and Finance regulates state-chartered financial institutions generally (Chapter 655, F.S.), Credit Unions (Chapter 657, F.S.), Banks and Trust Companies (Chapter 657, F.S.), Trusts (Chapter 660, F.S.), Associations (Chapter 665, F.S.) Savings Banks (Chapter 667, F.S.), Retail Installment Sales (Chapter 520), as well as those licensed for Mortgage Brokerage and Mortgage Lending (Chapter 494, F.S.), and Consumer Finance Companies (Chapter 516, F.S.). In addition to state oversight and regulation, these state-chartered institutions are required to comply with federal regulations governing their industries.

In addition, Florida law provides guidelines for Instruments Deemed Mortgages and the Nature of Mortgages (Chapter 697, F.S.), and provides protection for the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce (Chapter 501, F.S. – the “Little FTC” Act).

The Florida usury law prohibits mortgage interest rates exceeding an annual rate of 18 percent simple interest, with exceptions (s. 697.03, F.S.). However, consumer finance loans, capped at $25,000, may have interest rates as high as 30 percent per year for the first $2,000, 24 percent for the amount between $2,000 and $3,000, and up to 18 percent for the amount over $3,000. (s. 516.031, F.S.)

State-chartered financial institutions must comply with federal regulations as well as state laws regulating the industry. Mortgage brokers and lenders must be licensed to operate in the state and must also follow federal guidelines for lending. For instance, banks, credit unions, and mortgage companies must comply with Regulation C of the Home Mortgage Disclosure Act of 1975, providing citizens and public officials with data to help determine whether lenders are meeting the credit needs of their communities and complying with fair lending laws. In addition, Regulation Z, Truth in Lending, applies to all persons who extend consumer credit more than 25 times a year or, in the case of consumer credit secured by real estate, more than 5 times a year. However, the Department of Banking and Finance does not generally have the authority to enforce federal law, such as the requirements of HOEPA.

Other States’ Laws and Local Ordinances

Several states and cities have enacted laws restricting or prohibiting the use of certain credit provisions commonly associated with predatory lending, such as prepayment penalties and financing of up-front fees and credit insurance premiums. North Carolina and California have enacted laws that are more restrictive and have lower interest rate triggers on high cost loans than HOEPA. Other states, such as Pennsylvania, have enacted laws that essentially mirror HOEPA. The practical effect of this type law is to enable state banking regulators to enforce, as a matter of state law, current federal requirements. More importantly from the lending community’s perspective, the Pennsylvania law preempts any local ordinance (such as those proposed in Philadelphia) that impose restrictions on loans and maintains uniformity with federal law.

Various local governments have adopted ordinances declaring a moratorium on business relationships with financial institutions that originate loans with rates and terms defined as "predatory" or "high cost." These ordinances differ considerably, with percentage rate triggers that range from the current Treasury Bill rate plus 5 percent (DeKalb County, GA), to Treasury Bill rate plus 9 percent (Dayton, Ohio), and some in between. Some ordinances apply only to consumer loans that do not exceed $25,000, while others apply to open-end lines of credit but not reverse mortgages, and others apply only to loans secured by residential real estate. In December 2001, the City Commission of Miami authorized an investigation of the practice of predatory lending within the city and began the process of drafting an anti-predatory lending ordinance.

Lenders express great concern about a multitude of varying requirements that must be adhered to in different jurisdictions, and argue for a national standard such as HOEPA. Also, lenders do not wish to be officially labeled as making “predatory loans” or to be exposed to possible liability for violating laws covering high cost loans. Banks can become associated with predatory lending, inadvertently, through involvement in the mortgage and securities markets. Some banks purchase loans from loan brokers. Others have lending subsidiaries, form joint ventures with other lenders, or provide warehouse lines of credit, liquidity facilities, and dealer or broker lines. Some banks or their subsidiaries may service loans. In addition, some banks might invest in asset-backed securities or participate in the securitization process by providing trust services or acting as an underwriter.

III. Effect of Proposed Changes:

Section 1 creates a short title: the "Florida Fair Lending Act."

Section 2 provides definitions that mirror certain United States Code sections: "affiliate" as defined by the Federal Bank Holding Company Act; "annual percentage rate" as defined in the Federal Truth in Lending Act; and "high cost home loan" as the TILA defines what is a home loan under 15 USC s. 1602(aa), as amended by HOEPA and regulations adopted thereunder. Other defined terms include "borrower," "lender," "bridge loan," "home loan," "make a high cost loan, "and "residential property."

The bill defines "high cost home loan" as a home loan as defined in TILA (as amended by HOEPA) "as from time to time amended and regulations adopted thereunder." and which is secured by residential property in Florida. This would incorporate the latest Fed rules which cover loans, for a first mortgage lien, which have an interest rate 8 percentage points above comparable Treasury securities. For second liens, the trigger is 10 percentage points above Treasury securities. For example, a 10-year loan would be considered high cost at today's rates (about 5% for 10-year Treasury securities) if the rate is above about 13 percent for a first mortgage, or above 15 percent for a second mortgage.

The definition of "high cost home loan" also incorporates the federal fee-based trigger, to include loans for which the total points and fees exceed 8 percent of the loan amount or $400, whichever is greater, adjusted annually since 1994 based on the Consumer Price Index, which is $465 for 2001 and $480 for 2002. These fees include the cost of credit insurance and other debt-protection products financed through loans.

The definition of "lender" refers only to a person who makes a high-cost home loan or acts as a mortgage broker or lender finance company, or retail installment seller with respect to a high-cost home loan.

The definition of "residential property" secured by a high cost loan covered by the act *excludes* rental property or a second home, or a manufactured home when not secured in conjunction with the real property on which it is located.

Section 3 outlines prohibited acts which apply only to high-cost home loans, as follows:

Prepayment Penalties - The bill prohibits a high cost home loan from containing a prepayment penalty for paying all or part of the loan principal before the date on which the payment is due unless certain conditions are met. The lender may charge a prepayment penalty for up to the first 36 months after the loan's consummation provided: (1) the borrower is offered a choice of another product without a prepayment penalty; and, (2) at least three business days before the loan's consummation, the borrower is given a written disclosure of the terms of the prepayment penalty, including the benefit the borrower will receive through accepting the penalty, either through a reduced interest rate or reduced points or fees. (This is more restrictive than HOEPA, which allows prepayment penalties within the first 5 years, under certain conditions, rather than only within the first 3 years.)

Default Interest Rate – The bill prohibits a high cost home loan document from increasing the loan's interest rate after default on a loan. This prohibition does not apply to a loan with a variable interest rate provided the change in interest rate is not triggered by a default.

Balloon Payments – A high cost home loan with a term of less than 5 years may not contain a balloon payment provision, except for a "bridge loan" defined as having a maturity of less than 18 months. This prohibition does not apply when the payment schedule is adjusted to account for seasonal income of the borrower.

Negative Amortization - A high cost home loan may not contain terms whereby the outstanding principal balance will increase because the regular periodic payments do not cover the full amount of the interest due.

Prepaid Payments - A high cost home loan may not contain terms whereby more than two periodic payments are consolidated and paid in advance from the loan proceeds provided to the borrower.

Extending Credit Without Regard to the Payment Ability of the Borrower – A lender providing a high cost home loan is prohibited from extending credit based upon the borrower's collateral without regard to the borrower's ability to repay the loan.

Payments To a Home Contractor - A lender providing a high cost home loan is prohibited from making payments to a contractor under a home improvement contract with proceeds from a high cost loan unless the instrument is payable jointly to the borrower and the contractor, or by election of the borrower to a third-party escrow agent in accordance with a signed, written agreement between the borrower, the lender, and the contractor prior to the date of payment.

Due-On-Demand Clause - A lender is prohibited from terminating a high cost loan in advance of the maturity date and demanding repayment of the entire loan except in the case of fraud or material misrepresentation, the consumer defaults on the loan, or in the case that action or inaction on the part of the borrower affects the lender's security for the loan.

Refinancing Within a One-Year Period: A lender or its affiliate is prohibited from refinancing a high cost home loan to the same borrower when refinancing does not have a reasonable benefit to the borrower. "Reasonable benefit" occurs when, in the totality of the circumstances, there is a lower monthly payment, a beneficial change for the borrower in the long run, the borrower receives a reasonable amount of cash in excess of and in relation to points and fees, or there is a change from an adjustable rate to a fixed rate. Lenders are prohibited from engaging in any practice that serves to evade this requirement.

Open-ended Loans: The bill prohibits a lender from making an open-ended loan to evade the provisions of the act unless the open-ended loan meets the definition in cited federal rules. The rules attempt to prevent evasions of HOEPA, which only covers closed-end loans, by prohibiting a creditor from wrongfully documenting them as open-end credit. For example, a high cost mortgage could not be structured as a home-secured line of credit if there is not reasonable expectation that repeat transactions will occur under a reusable line of credit.

Recommendation of Default - A creditor may not recommend or encourage default on an existing loan or other debt in connection with a high-cost home loan that refinances any portion of the existing loan.

Selling Loans at Borrower's Residence - A lender may not offer or sell a high-cost home loan at the residence of a potential borrower without a prearranged appointment or the expressed invitation of the potential borrower.

Section 4 requires disclosures by lenders offering high cost home loans to borrowers. Some of the disclosures are in addition to those already required under HOEPA and other laws. These disclosures must be given not less than three business days prior to the consummation of the loan. Lenders must provide additional disclosures if the lender changes the terms of the extension of credit and any original disclosures are rendered inaccurate by the change. Additional disclosures may be made via telephone if the borrower initiates the change, if at the consummation of the loan the lender provides the disclosures in writing to the borrower and the lender and borrower certify in writing that the lender provided the additional disclosures via telephone no later than 3 days prior to the consummation. Disclosures include the following:

- The lender will have a mortgage on the borrower's home and that the borrower could lose the home if the borrower defaults.
- The lender must explain the basis for establishing interest rates, closing costs and fees, and advise the borrower to shop around.
- The borrower should consider consulting a qualified independent credit counselor or financial counselor regarding rates, fees, and other obligations under the loan.
- The borrower need not complete the agreement because he or she has signed an application.
- Debt consolidation is an appropriate tool, but amassing more credit debt after consolidation could result in losing the home if there is a default.
- Property taxes and insurance are the borrower's responsibility.
- Payments on existing debts contribute to the borrower's credit rating.
- Disclosure of the APR on a fixed mortgage, or the amount of the monthly payment and any permitted balloon payment, if a variable mortgage, and a statement explaining that the interest rate and the payments may increase.
- Disclosure to purchasers and assignees that the mortgage is subject to the provisions of this Act.

Section 5 requires the Department of Banking and Finance to administer and enforce the provisions of this act. The department would be provided authority to:
- adopt rules to implement this act;

- conduct an investigation of any person when the department has reason to believe that any violation of this act has occurred;
- conduct examinations of any person to determine compliance with this act;
- to bring an action on behalf of the State against any person who has violated or is about to violate any provision of this act or any rule or order issued under the act, to enjoin the person from continuing in or engaging in any act in furtherance of the violation;
- issue an order to cease and desist and to take corrective action when the department has reason to believe the person is violating, has violated, or is about to violate any provision of this act, or any rule or order of the department issued under this act, or any written agreement between the person and the department; and
- impose a fine not exceeding $5,000 for each count or separate offense, not to exceed $250,000 for all violations which could have been asserted at the time of the order.

Section 6 provides that this Act preempts all ordinances, resolutions, and rules of all political subdivision of the state, including home-rule municipalities, pertaining to the financial or lending activities of persons who: are subject to the jurisdiction of the Department of Banking and Finance; are subject to the jurisdiction of the Office of Thrift Supervision, the Office of the Comptroller of the Currency, the National Credit Union Administration, the Federal Deposit Insurance Corporation, the Federal Trade Commission, or the United States Department of Housing and Urban Development; or originate, purchase, sell, assign securitize or service property interests or obligations created by financial transactions or loans made by such persons. The preemption includes ordinances, resolutions, or rules disqualifying persons from doing business with a political subdivision based upon financial or lending activities or imposing reporting requirements or any other obligations upon persons regarding financial or lending activities. However, this does not prohibit a requirement of compliance with the terms of this act as a condition of dong business with a county, municipality, or other political subdivision of the state.

Section 7 provides that the provisions of this Act are severable if any part is declared invalid or pre-empted by federal law or regulation.

Section 8 provides an effective date of October 2, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill defines "high cost loan" as a home loan as defined in cited federal statutes "as from time to time amended and regulations adopted thereunder." Although the Legislature may approve and adopt provisions of federal statutes, and all administrative rules made by a federal administrative body that are in existence and in effect at time the Legislature acts, it constitutes an unconstitutional delegation of legislative power if the Legislature adopts in advance any federal act or ruling of any federal administrative body that Congress or such administrative body may adopt in the future. *See State ex rel. Orange State Oil Co.*. 21 So.2d 599, 603 (Fla. 1945). The bill's definition will take the federal law as it exists at the time the state law is enacted without affect by any subsequent amendment to the federal law or regulations.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This act substantially follows current federal HOEPA requirements and, as such, do not impose significant new restrictions relative to high cost loans and should not adversely affect sub-prime lenders or access to capital and loans in the sub-prime market. The main differences from HOEPA are: (1) prohibiting a prepayment penalty within the first three years, rather than within the first 5 years; (2) prohibiting a lender from offering or selling a high-cost home loan at the residence of a potential borrower without an appointment or invitation; (3) required delivery of all loan documents 72 hours prior to closing a high-cost loan; and (4) authorizing the Department of Banking and Finance to impose civil penalties for violations of the act.

Consumers should benefit by more effective enforcement of these provisions by the Department of Banking and Finance (which does not currently enforce the federal laws), at least with regard to state-chartered and licensed institutions.

C. Government Sector Impact:

The Department of Banking and Finance states that no new positions or funding would be necessary to implement and enforce this act, which can be accomplished through current examination of state-chartered and state-licensed lending institutions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Committee Substitute for Senate Bill 2262 (by Banking and Insurance and Senator Meek) would create the "Florida Home Loan Protection Act" which provides requirements and restrictions on high cost mortgage loans that would be more restrictive than current federal law and CS/SB 2380, and which would not preempt local government ordinances.

VIII. Amendments:

None.