By Senator Bullard

39-324-07

1	A bill to be entitled
2	An act relating to offenses involving
3	residential mortgages; providing legislative
4	findings; describing the offense of residential
5	mortgage fraud and providing penalties therefor
6	and enhanced penalties when there is a pattern
7	of residential mortgage fraud; defining terms;
8	describing venue for such offenses; providing
9	an effective date.
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11	Be It Enacted by the Legislature of the State of Florida:
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13	Section 1. Short title This act may be cited as the
14	"Florida Residential Mortgage Fraud Act."
15	Section 2. Legislative findingsThe Legislature
16	finds and declares that fraud involving residential mortgages
17	is at an all-time high in the United States and in this state.
18	Mortgage lending institutions and borrowers have suffered
19	hundreds of millions of dollars in losses due to residential
20	mortgage fraud. Fraudulently inflated property values have
21	resulted in substantial increases in property taxes and have
22	threatened the viability of many communities. The Legislature
23	therefore concludes that, for the protection of the public and
24	particularly for the protection of borrowers, homeowners,
25	lending institutions, and the integrity of the mortgage
26	lending process, the Florida Residential Mortgage Fraud Act
27	must be enacted.
28	Section 3. Residential mortgage fraud; prohibition,
29	definitions, and penalties
30	(1) DEFINITIONS As used in this section, the term:
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1	(a) "Mortgage lending process" means the process
2	through which a person seeks or obtains a residential mortgage
3	loan, including, but not limited to: solicitation,
4	application, origination, negotiation of terms, third-party
5	provider services, underwriting, signing and closing, and
6	funding of the loan. Documents involved in the process
7	include, but are not limited to: uniform residential loan
8	applications or other loan applications; appraisal reports;
9	HUD-1 settlement statements as well as supporting personal
10	documentation for loan applications, such as W-2 forms,
11	verifications of income and employment, bank statements, tax
12	returns, credit reports, and payroll stubs; and any required
13	disclosures.
14	(b) "Pattern of residential mortgage fraud" means one
15	or more misstatements, misrepresentations, or omissions made
16	during the mortgage lending process which involve two or more
17	residential properties and which have the same or similar
18	intents, results, accomplices, victims, or methods of
19	commission or otherwise are interrelated by distinguishing
20	characteristics.
21	(c) "Person" has the same meaning as in s. 1.01,
22	Florida Statutes.
23	(d) "Residential mortgage loan" means a loan or
24	agreement to extend credit made to a person, which loan is
25	secured by a deed to secure debt, security deed, mortgage,
26	security interest, deed of trust, or other document
27	representing a security interest or lien upon any interest in
28	one-family to four-family residential property located in this
29	state. The term includes the renewal or refinancing of any
30	such loan.
31	(2) RESIDENTIAL MORTGAGE FRAUD

1	(a) The offense of residential mortgage fraud is
2	committed when a person:
3	1. Knowingly makes any deliberate misstatement,
4	misrepresentation, or omission during the mortgage lending
5	process with the intention that it be relied upon by a
6	mortgage lender, borrower, or any other party to that process;
7	2. Knowingly uses or facilitates the use of any
8	deliberate misstatement, misrepresentation, or omission during
9	the mortgage lending process with the intention that it be
10	relied upon by a mortgage lender, borrower, or any other party
11	to that process;
12	3. Receives any proceeds or any other funds in
13	connection with a residential mortgage closing which such
14	person knew resulted from a violation of subparagraph 1. or
15	subparagraph 2.;
16	4. Conspires to violate any provision of subparagraph
17	1., subparagraph 2., or subparagraph 3.; or
18	5. Files or causes to be filed with the clerk of court
19	as the official registrar of deeds of any county in this state
20	any document involved in the mortgage lending process which
21	that person knows to contain a deliberate misstatement,
22	misrepresentation, or omission.
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24	The offense of residential mortgage fraud may not be
25	predicated solely on information lawfully disclosed under
26	federal disclosure laws, regulations, and interpretations
27	related to the mortgage lending process.
28	(b) A violation of this section may be considered to
29	have been committed:
30	1. In the county in which the residential property for
31	which a mortgage loan is being sought is located;

1	2. In any county in which any act was performed in
2	furtherance of the violation;
3	3. In any county in which any person alleged to have
4	violated this section had control or possession of any
5	proceeds resulting from the violation;
6	4. If a closing occurred, in the county in which the
7	closing occurred; or
8	5. In any county in which a document involved in the
9	mortgage lending process containing a deliberate misstatement,
10	misrepresentation, or omission is filed with the clerk of
11	court as the official registrar of deeds.
12	(3) PENALTIES
13	(a) A person who violates this section commits a
14	felony of the third degree, punishable as provided in s.
15	775.082, s. 775.083, or s. 775.084, Florida Statutes.
16	(b) If a violation of this section involves engaging
17	or participating in a pattern of residential mortgage fraud or
18	a conspiracy or endeavor to engage or participate in a pattern
19	of residential mortgage fraud, any person so engaged or so
20	participating commits a felony of the second degree,
21	punishable as provided in s. 775.082, s. 775.083, or s.
22	775.084, Florida Statutes.
23	(c) Each residential property transaction subject to a
24	violation of this section constitutes a separate offense.
25	Section 4. This act shall take effect October 1, 2007.
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28	SENATE SUMMARY
29	Creates the offense of residential mortgage fraud, which is a third-degree felony unless it is part of a pattern
of residential mortgage fraud, which is a second-d felony. Prescribes venue of the offense.	of residential mortgage fraud, which is a second-degree
	rerony. Prescribes venue of the offense.