

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.

23
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.

26
27 *****

28 SENATE SUMMARY

29 Creates the offense of residential mortgage fraud, which
30 is a third-degree felony unless it is part of a pattern
31 of residential mortgage fraud, which is a second-degree
 felony. Prescribes venue of the offense.