

1 (a) Makes any material misstatement,
2 misrepresentation, or omission during the mortgage lending
3 process with the intention that the misstatement,
4 misrepresentation, or omission will be relied on by a mortgage
5 lender, borrower, or any other party to the real property
6 transaction process; however, a material omission does not
7 occur when such omission is made as part of a lending program
8 in which income, assets, or employment determination are not
9 factors for qualification for the loan program.

10 (b) Uses or facilitates the use of any material
11 misstatement, misrepresentation, or omission, knowing the
12 misstatement, misrepresentation, or omission contains a
13 misstatement, misrepresentation, or omission, during the
14 mortgage lending process with the intention that the material
15 misstatement, misrepresentation, or omission will be relied on
16 by a mortgage lender, borrower, or any other party to the real
17 property transaction process; however, a material omission
18 does not occur when such omission is made as part of a lending
19 program in which income, assets, or employment determination
20 are not factors for qualification for the loan program.

21 (c) Receives any proceeds or any other funds in
22 connection with a real property transaction that the person
23 knew resulted from a violation of paragraph (a) or paragraph
24 (b).

25 (d) Files or causes to be filed with the clerk of the
26 circuit court for any county of this state a document
27 materially relating to a real property transaction which
28 contains a material misstatement, misrepresentation, or
29 omission.

30 (4) An offense of real property fraud shall not be
31 predicated solely upon information lawfully disclosed under

1 federal disclosure laws, regulations, or interpretations
2 related to the mortgage lending process.

3 (5) For the purpose of venue under this section, any
4 violation of this section shall be considered to have been
5 committed:

6 (a) In the county in which the real property is
7 located; or

8 (b) In any county in which a material act was
9 performed in furtherance of the violation.

10 (6) Any person who violates subsection (3) commits a
11 felony of the third degree, punishable as provided in s.
12 775.082, s. 775.083, or s. 775.084.

13 Section 2. This act shall take effect October 1, 2007.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 352 and Senate Bill 240

The committee substitute provides the following changes to the bill:

1. Broadens the types of fraudulent real estate transactions that would be addressed by the bill by establishing criminal penalties for offenses that constitute "real property fraud" rather than "residential mortgage fraud."
2. Provides that certain offenses constitute real property fraud, a felony of the third degree, and provides exceptions for material omissions relating to loans that do not require credit underwriting.
3. Provides that an offense of real property fraud cannot be predicted solely on information lawfully disclosed under laws and regulations related to the mortgage lending process.
4. Narrows venue by providing that any real property fraud violation is considered to have been committed in the county in which the real estate property is located or in any county in which a material act was performed in furtherance of the violation.
5. Deletes the provision of the bill related to civil forfeitures.
6. Deletes the provision of the bill that provided a second degree felony penalty for a person who engages in a pattern of mortgage fraud of a conspiracy to engage in a pattern of mortgage fraud.
7. Provides technical and clarifying changes.