

By the Committees on Judiciary; Banking and Insurance; and
Senators Margolis, Bullard, Crist and Fasano

590-2501-07

1 A bill to be entitled

2 An act relating to real property fraud;

3 creating s. 817.545, F.S.; defining the term

4 "mortgage lending process"; specifying the

5 elements of the offense of real property fraud;

6 providing that such offense is a third-degree

7 felony; providing for venue with respect to the

8 committed offense; providing penalties;

9 providing 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. Section 817.545, Florida Statutes, is

14 created to read:

15 817.545 Real property fraud.--

16 (1) For the purposes of the section, the term

17 "mortgage lending process" means the process through which a

18 person seeks or obtains a residential mortgage loan,

19 including, but not limited to, the solicitation, application

20 or origination, negotiation of terms, third-party provider

21 services, underwriting, signing and closing, and funding of

22 the loan. Documents involved in the mortgage lending process

23 include, but are not limited to, mortgages, deeds, surveys,

24 inspection reports, uniform residential loan applications, or

25 other loan applications; appraisal reports; HUD-1 settlement

26 statements; supporting personal documentation for loan

27 applications such as W-2 forms, verifications of income and

28 employment, credit reports, bank statements, tax returns, and

29 payroll stubs; and any required disclosures.

30 (2) A person commits the offense of real property

31 fraud if, with the intent to defraud, the person knowingly:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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 person or entity involved in
6 the mortgage lending process; however, omissions on a loan
7 application regarding employment, income, or assets for a loan
8 which does not require this information are not considered a
9 material omission for purposes of this subsection.

10 (b) Uses or facilitates the use of any material
11 misstatement, misrepresentation, or omission during the
12 mortgage lending process with the intention that the material
13 misstatement, misrepresentation, or omission will be relied on
14 by a mortgage lender, borrower, or any other person or entity
15 involved in the mortgage lending process; however, omissions
16 on a loan application regarding employment, income, or assets
17 for a loan which does not require this information are not
18 considered a material omission for purposes of this
19 subsection.

20 (c) Receives any proceeds or any other funds in
21 connection with the mortgage lending process that the person
22 knew resulted from a violation of paragraph (a) or paragraph
23 (b).

24 (d) Files or causes to be filed with the clerk of the
25 circuit court for any county of this state a document involved
26 in the mortgage lending process which contains a material
27 misstatement, misrepresentation, or omission.

28 (3) An offense of real property fraud may not be
29 predicated solely upon information lawfully disclosed under
30 federal disclosure laws, regulations, or interpretations
31 related to the mortgage lending process.

1 (4) For the purpose of venue under this section, any
2 violation of this section is considered to have been
3 committed:

4 (a) In the county in which the real property is
5 located; or

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

8 (5) Any person who violates subsection (2) commits a
9 felony of the third degree, punishable as provided in s.
10 775.082, s. 775.083, or s. 775.084.

11 Section 2. This act shall take effect October 1, 2007.

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 CS for SB's 352 & 240

16 This committee substitute differs from the underlying
17 committee substitute in that it:

- 18 -- Provides a definition for the term "mortgage lending
19 process"; and
20 -- Replaces references to "real property transaction" with
21 "mortgage lending process."
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