

DRAFT

A bill to amend 1977 PA 135, entitled

“An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; and to provide remedies and penalties.”

MCL 445.1601 to 445.1614) by amending the title, as amended by 1993 PA 43, and by adding sections 2b, 2c, and 2d.

TITLE

An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; TO PROVIDE FOR THE COLLECTION OF AN ESTATE PRESERVATION PREMIUM; TO CREATE THE ESTATE PRESERVATION FUND AND PROVIDE FOR THE EXPENDITURE OF THE FUND; TO PROVIDE FOR COMPLIANCE BY THIS STATE WITH THE SOCIAL SECURITY ACT; TO PRESCRIBE THE POWERS AND DUTIES OF CERTAIN STATE GOVERNMENTAL OFFICERS AND AGENCIES; TO AUTHORIZE THE PROMULGATION OF RULES; and to provide remedies and penalties.

SECTION 2 b. (1) Beginning January 1, 2008, a credit granting institution shall charge each residential mortgagor a monthly estate preservation premium of \$1.00 for a mortgage with a term of 360 months. If the term of the mortgage is less than 360 months a credit granting institution shall charge each residential mortgagor a monthly estate preservation premium in an amount that will result in a total sum of \$360.00 in premium payments over the term of the mortgage. If the term of the mortgage is greater than 360 months the credit granting institution shall not charge the estate preservation premium after the total sum of \$360.00 in estate preservation premiums has been paid. The total amount of estate preservation premiums required to be paid by an individual with respect to a parcel of residential real estate shall not exceed \$360.00.

If there are multiple mortgagors of a residential mortgage, the estate preservation premium under this subsection shall be assessed against each mortgagor individually.

(2) A credit granting institution shall not be required to comply with subsection (1) if the mortgagor executes an affidavit on a form prescribe by the Department of Community Health stating that the mortgagor has already paid the total sum of \$360.00 in estate preservation premiums with respect to the residential real estate. The credit granting institution shall promptly transmit the affidavit to the Department.

(3) If a mortgagor executes an affidavit on a form prescribed by the Department of Community Health stating the mortgagor has paid total estate preservation premiums in an amount less than \$360.00 with respect to the residential real estate, the credit granting institution shall collect the balance of the premiums in the manner prescribed in subsection (1).

(4) A credit granting institution shall deposit the estate preservation premiums collected by it under this section in the estate preservation fund created in Section 2C.

SECTION 2c. (1) The estate preservation fund is created within the state treasury.

(2) The state treasurer shall deposit money received from a credit granting institution under section 2B and may receive and deposit money or other assets from contributions from any source into the estate preservation fund. The state treasurer shall direct the investment of the estate preservation fund. The state treasurer shall credit to the estate preservation fund interest and earnings from fund investments.

(3) Money in the estate preservation fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The Department of Community Health shall expend money from the estate preservation fund, upon appropriation, for one or more of the following purposes:

(A) To fund long-term care services.

(B) To make any payment required to be paid to the United States in compliance with Section 1917 of Title XIX of the Social Security Act, 42 USC 1396P.

SECTION 2d. (1) The Department of Community Health shall establish a program that requires an individual who owns an interest in residential real estate, other than a lien interest or a lessee interest, that is not subject to estate preservation premium payments pursuant to section 2B to pay the equivalent of 360 monthly estate preservation premiums into the estate preservation fund established in section 2C.

(2) The Department of Community Health may promulgate rules to implement this section pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) Residential real estate for which the estate preservation premium has been paid in full by an individual is not subject to estate recovery under section 1917 of Title XIX of the Social Security Act, 42 USC 1396P upon the death of the individual.

Residential real estate for which the estate preservation premium had not been paid in full by an individual at the time of the death of the individual is not subject to estate recovery if the individual was currently making estate preservation premium payments pursuant to section 2B or 2D at the time of death.