Rep. Angelo Saviano

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09600SB0253ham001　　　　　　　　　　　　LRB096 03546 AJO 30077 a

1	AMENDMENT TO SENATE BILL 253
2	AMENDMENT NO. _____. Amend Senate Bill 253 by replacing
3	everything after the enacting clause with the following:
4	"Section 5. The Mortgage Escrow Account Act is amended by
5	adding Section 6.5 as follows:
6	(765 ILCS 910/6.5 new)
7	Sec. 6.5. Homeownership preservation program.
8	(a) For purposes of this Section,
9	"Homeownership Preservation Program" means
10	(1) a program that is expressly intended to assist
11	homeowners by refinancing or restructuring existing
12	mortgage obligations either (i) to avoid default or
13	foreclosure, or both, or (ii) to lower interest rates, and
14	that is sponsored by a federal, state, or local government
15	authority or a non-profit organization; or
16	(2) a lender-sponsored program that is expressly

1   intended to assist homeowners by restructuring existing

2   mortgage obligations to avoid default or foreclosure, or

3   both.

4   "Subprime Mortgage Lender" means a mortgage lender that

5 has, for at least 2 of the prior 3 reporting years, reported

6 the rate spread, as required under 12 C.F.R. § 203.4(a)(12),

7 for at least 75% of the loans reported by the mortgage lender

8 in the Loan/Application Register filed in compliance with the

9 federal Home Mortgage Disclosure Act, 12 U.S.C. 2801 et seq.,

10 and implementing Regulation C, 12 C.F.R. 201 et seq.

11   (b) Section 6 shall not apply:

12   (1) to a mortgage loan made by a subprime mortgage

13   lender in compliance with the requirements for

14   higher-priced mortgage loans established in Regulation Z

15   12 C.F.R. Part 226, issued by the Board of Governors of the

16   Federal Reserve System to implement the federal Truth in

17   Lending Act, whether or not the mortgage loan is a

18   higher-priced mortgage loan, provided that:

19   (A) for loans that are not higher-priced mortgage

20   loans, the escrow account must be terminated upon the

21   borrower's request at no cost to the borrower; and

22   (B) for loans that are higher-priced mortgage

23   loans, the escrow account must be terminated upon the

24   borrower's request at no cost to the borrower on terms

25   no stricter than the following conditions:

26   (i) the escrow termination requirements

1   established in Regulation Z are satisfied;

2   (ii)   the   borrower   has   maintained   a

3   satisfactory payment history (no payments more

4   than 30 days late) for the 12 months prior to the

5   mortgage   lender's   receipt   of   the   borrower's

6   termination request; and

7   (iii) the borrower has reimbursed the mortgage

8   lender   for   any   escrow   advances   or   escrow

9   deficiencies   existing   at   the   time   of   the

10   borrower's termination request.

11   (2) to a refinance or modification made by a subprime

12   mortgage lender under a homeownership preservation program

13   that requires establishment of an escrow account as a

14   condition or requirement of the refinance or modification,

15   provided that the escrow account must be terminated upon

16   the borrower's request at no cost to the borrower on terms

17   no stricter than the following conditions:

18   (A) termination is permitted under the terms of the

19   government   or   non-profit   sponsored   homeownership

20   preservation program, if applicable, and the borrower

21   complies with all conditions or requirements for

22   termination established by or allowed under such

23   program;

24   (B) the borrower has maintained a satisfactory

25   payment history (no payments more than 30 days late)

26   for the 12 months prior to the mortgage lender's

1   receipt of the borrower's termination request; and

2   (C) the borrower has reimbursed the mortgage

3   lender for any escrow advances or escrow deficiencies

4   existing at the time of the borrower's termination

5   request.

6   Termination may not be denied for failure to reimburse

7   escrow advances or escrow deficiencies under item (iii) of

8   subparagraph (B) of paragraph (1) of subsection (b), or

9   subparagraph (C) of paragraph (2) of subsection (b) if the

10   borrower claims, in writing, that there is an error with such

11   advances or deficiencies. In such case, the lender must

12   terminate the escrow account if all other conditions of

13   termination are satisfied; however, such termination will not

14   alter or affect any other rights of the mortgage lender or the

15   borrower with respect to the collection of such escrow advances

16   or escrow deficiencies.

17   Section 99. Effective date. This Act takes effect upon

18   becoming law.".