
HOUSE BILL 1586

State of Washington

61st Legislature

2009 Regular Session

By Representatives Kirby, Bailey, Hurst, Roach, and Santos

Read first time 01/23/09. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to nontraditional mortgages; and amending RCW
2 19.144.010 and 19.144.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.144.010 and 2008 c 108 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Adjustable rate mortgage" or "ARM" means a payment option ARM
9 or a hybrid ARM (commonly known as a 2/28 or 3/27 loan).

10 (2) "Application" means the same as in Regulation X, Real Estate
11 Settlement Procedures, 24 C.F.R. Sec. 3500, as used in an application
12 for a residential mortgage loan.

13 (3) "Borrower" means any person who consults with or retains a
14 person subject to this chapter in an effort to seek information about
15 obtaining a residential mortgage loan, regardless of whether that
16 person actually obtains such a loan.

17 (4) "Department" means the department of financial institutions.

18 (5) "Director" means the director of the department of financial
19 institutions.

1 (6) "Financial institution" means commercial banks and alien banks
2 subject to regulation under Title 30 RCW, savings banks subject to
3 regulation under Title 32 RCW, savings associations subject to
4 regulation under Title 33 RCW, credit unions subject to regulation
5 under chapter 31.12 RCW, consumer loan companies subject to regulation
6 under chapter 31.04 RCW, and mortgage brokers and lenders subject to
7 regulation under chapter 19.146 RCW.

8 (7) "Fully indexed rate" means the index rate prevailing at the
9 time a residential mortgage loan is made, plus the margin that will
10 apply after the expiration of an introductory interest rate.

11 (8) "Interest-only" means when the loan agreement allows the
12 borrower to make payments that only pay the amount needed to pay all
13 the interest that has accrued on the loan. The principal of the loan
14 is not reduced by the payment.

15 (9) "Negative amortization" means an increase in the principal
16 balance of a loan caused when the loan agreement allows the borrower to
17 make payments less than the amount needed to pay all the interest that
18 has accrued on the loan. The unpaid interest is added to the loan
19 balance and becomes part of the principal.

20 ((+9)) (10) "Person" means individuals, partnerships,
21 associations, limited liability companies, limited liability
22 partnerships, trusts, corporations, and all other legal entities.

23 ((+10)) (11) "Residential mortgage loan" means an extension of
24 credit secured by residential real property located in this state upon
25 which is constructed or intended to be constructed, a single-family
26 dwelling or multiple-family dwelling of four or less units. It does
27 not include a reverse mortgage or a borrower credit transaction that is
28 secured by rental property. It does not include a bridge loan. It
29 does not include loans to individuals making or acquiring a residential
30 mortgage loan solely with his or her own funds for his or her own
31 investment. For purposes of this subsection, a "bridge loan" is any
32 temporary loan, having a maturity of one year or less, for the purpose
33 of acquisition or construction of a dwelling intended to become the
34 borrower's principal dwelling.

35 ((+11)) (12) "Subprime loan" means a consumer-purpose closed end
36 loan secured by a consumer's principal dwelling and having an annual
37 percentage rate that exceeds the average prime offer rates for a

1 comparable transaction published by the federal reserve board by at
2 least one and one-half percentage points for a first-lien loan or three
3 and one-half percentage points for a subordinate-lien loan.

4 (13) "The interagency guidance on nontraditional mortgage product
5 risks" means the guidance document issued in September 2006 by the
6 office of the comptroller of the currency, the board of governors of
7 the federal reserve system, the federal deposit insurance corporation,
8 the office of thrift supervision, and the national credit union
9 administration, and the guidance on nontraditional mortgage product
10 risks released in November 2006 by the conference of state bank
11 supervisors and the American association of residential mortgage
12 regulators.

13 ~~((12))~~ (14) "The statement on subprime mortgage lending" means
14 the guidance document issued in June 2007 by the office of the
15 comptroller of the currency, the board of governors of the federal
16 reserve system, the federal deposit insurance corporation, the office
17 of thrift supervision, and the national credit union administration,
18 and the statement on subprime mortgage lending released in July 2007 by
19 the conference of state bank supervisors, the American association of
20 residential mortgage regulators, and the national association of
21 consumer credit administrators.

22 **Sec. 2.** RCW 19.144.030 and 2008 c 108 s 4 are each amended to read
23 as follows:

24 (1) The department shall apply the interagency guidance on
25 nontraditional mortgage product risks and the statement on subprime
26 mortgage lending to interest-only mortgages, adjustable rate mortgages,
27 and subprime loans made by financial institutions. This section does
28 not apply to adjustable rate mortgages made, purchased, guaranteed, or
29 insured by the federal national mortgage association, federal home loan
30 mortgage corporation, federal housing administration, and the federal
31 veteran's association.

32 (2)(a) Financial institutions subject to this chapter shall adopt
33 and adhere to internal policies and procedures that are reasonably
34 intended to achieve the objectives set forth in the interagency
35 guidance on nontraditional mortgage product risks and the statement on
36 subprime mortgage lending as set forth in subsection (1) of this
37 section.

1 (b) The department shall adopt rules as required to implement this
2 section.

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