
Business & Financial Services Committee

HB 1342

Brief Description: Addressing the purchase of flood insurance.

Sponsors: Representatives Taylor, Haler and Johnson.

Brief Summary of Bill

- Prevents lenders from requiring flood insurance on residential mortgages in certain circumstances.

Hearing Date: 2/1/11

Staff: Jon Hedegard (786-7127).

Background:

A lender may require a borrower to purchase flood insurance as a part of the contract for any home loan in any area. Flood insurance is required by the federal government in most lending circumstances on property located in an area designated as a special flood hazardous area (SFHA) by maps of the Federal Emergency Management Agency (FEMA). The federal requirement for flood coverage is placed on the lender, not the buyer. It applies to loans made, renewed, increased, or extended or purchased by:

- federally regulated lenders, including any bank or credit union that is overseen by a federal banking agency or insured by a federal agency;
- Government-Sponsored Enterprises for housing; and
- federal agency lenders.

The FEMA has a dispute process for homeowners that believe that they are erroneously placed in an SFHA or other risk classification.

The majority of flood insurance is provided by the National Flood Insurance Program (NFIP) though private insurers can, and sometimes do, offer coverage. To participate in the NFIP, a community must enter into an agreement with FEMA to use the FEMA maps and the community

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must adopt and enforce ordinances to limit flood damage. If a community does not agree to do this, it cannot participate in the NFIP. A community may adopt and enforce standards that are higher than those required by the FEMA but may not adopt lesser standards or choose to not enforce the minimum FEMA standards. Failure to meet minimum standards may result in higher premiums or termination from the NFIP.

According to the NFIP, approximately 32 insurers participate in the NFIP in Washington. There is no state oversight of the NFIP policies. The NFIP policies may be offered by participating insurers and their agents. Agents licensed in Washington who sell federal flood insurance policies are required by state law to comply with the minimum training requirements established by FEMA.

Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce. The Attorney General may bring an action to enforce the provisions of the CPA. In addition, a person injured by a violation of the CPA may bring a civil action in which the person may be awarded court costs, attorney fees, and treble damages.

Summary of Bill:

"Lender" is defined to mean any person or entity loaning money for the purpose of making a residential mortgage loan, including state and federal banks, state and federal credit unions, consumer loan companies, and mortgage brokers.

A lender that purchases or receives a residential mortgage loan from another lender may not require a homeowner to purchase flood insurance in connection with that residential mortgage loan unless:

- The original lender required flood coverage;
- the determination by the original lender to not require flood insurance was incorrect at the time the loan was made, and flood coverage was required by federal law; or
- the area where the home is located was reclassified, and the flood insurance is now required by federal law.

If a county, city, or town makes a determination regarding the classification of the flood risk of a piece of property, a lender must use that determination to ascertain whether or not flood insurance was required or is required.

A violation of the act is a violation of the CPA.

If any provision of the act or its application to any person or circumstance is held to be invalid, the entire act is invalid.

Appropriation: None.

Fiscal Note: Requested on January 28, 2011.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.