

## **HB 552: Home Owner Protections**

### **Mortgage Lending Protection Bill is a Big Step Forward**

#### **Kentucky Equal Justice Center**

*In a nutshell: The 2008 General Assembly passed a wide-ranging bill on mortgage lending, with new protections for consumers and new requirements for lenders. On April 24, Governor Steve Beshear signed it into law.*

In response to the foreclosure crisis, the Kentucky state agency that oversees mortgage loan companies and mortgage brokers this year drafted a bill with new protections for consumers and new requirements for lenders and other businesses that play a role in the mortgage lending process.

The Office for Financial Institutions (OFI) consulted with several industry and consumer groups in crafting [HB 552](#), sponsored by the chair of the House Banking and Insurance Committee Rep. Tommy Thompson of Owensboro. With support from both lenders and advocates, the bill passed the General Assembly with little controversy and few changes.

Advocates from AARP Kentucky and the Kentucky Equal Justice Center say HB 552 measures up well on key themes for protecting consumers. Political blogger Larry Dale Keeling of the Lexington Herald-Leader called it one of only two measures that “one could remotely consider landmark legislation” this year. (That’s high praise.) Herald-Leader. April 11, 2008.

Here are brief descriptions of key consumer protection provisions:

#### **Theme One: Require Responsible Lending**

HB 552 would extend the scope and protections of Kentucky’s High Cost Home Loan Act in several ways designed to make sure borrowers can afford to repay loans and can refinance more easily. The bill:

- Sets new affordability requirements for High Cost Home Loans including:
  - Verification of the borrower’s income
  - Assessment of ability to pay based on maximum rates for ARMs
  - HUD-approved counseling before refinancing into a High Cost Loan
- Redefines High Cost Home Loans to include:
  - Loans under \$200,000 with points and fees greater than \$3000 or 6%, compared to the current threshold of 8% (covering more loans)
- For loans made by a mortgage loan company, reduces barriers to refinancing a disadvantageous loan by:

- Limiting prepayment penalties to the first 3 years of a loan (3-2-1 percent)
- Barring prepayment penalties in the 60 days before an Adjustable Rate Mortgage resets

### **Theme Two: Hold All Parties Accountable**

The mortgage loan process includes many actors, not just the borrower and lender. The bill strengthens standards of conduct—and related enforcement—in several ways:

- Makes clear mortgage brokers must act in best interest of borrowers
- Caps mortgage broker fees at \$2000 or 4% (whichever is higher)
- Makes it unlawful to influence appraisals improperly
- Sets standards for “servicers” who collect payments for a lender
- Allows OFI to establish electronic filing and be part of nationwide registry
- Requires mortgage lenders and brokers to have an agent for service of process in Kentucky
- Expands criminal prosecution for mortgage fraud

### **Theme Three: Help families in danger of losing their homes**

- Allows Kentucky Housing Corporation to create a Homeownership Protection Center to provide counseling and referrals for consumers in danger of foreclosure

### **It’s the law**

HB 552 includes an emergency clause, so it went into effect upon signing by Governor Steve Beshear on April 24. A signing ceremony was held a few days later, on April 28.

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