

FIRST REGULAR SESSION

SENATE BILL NO. 235

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time January 29, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0983S.011

AN ACT

To repeal sections 408.590, 408.592, and 408.600, RSMo, and to enact in lieu thereof two new sections relating to residential real estate loan reporting.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 408.590, 408.592, and 408.600, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as sections 408.590 and
3 408.600, to read as follows:

408.590. 1. [Each division director shall cause each state financial
2 institution which he supervises, licenses or charters and which has an office
3 within a county or a city, such county or city having a population in excess of two
4 hundred fifty thousand, to be examined periodically during which examination
5 the following shall be determined:

6 (1) The number and total dollar amount of residential real estate loans
7 originated, purchased, or foreclosed by the financial institution after January 1,
8 1980, in each of the following categories:

9 (a) Loans secured by residential real estate located outside the state of
10 Missouri other than in counties contiguous to the state of Missouri;

11 (b) Loans secured by residential real estate located in the state of
12 Missouri or in the counties of other states which counties are contiguous to the
13 border of the state of Missouri, which number and dollar amount shall be further
14 reported by the county in which the property is located;

15 (2) The number of residential real estate loan applications denied by the
16 institution in which the real estate which was to secure the loan is situated in a
17 county or city with a population in excess of two hundred and fifty thousand by
18 such county or city;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 (3) By a method to be determined by each division director, such facts as
20 will enable the division director to conclude whether or not the institution has
21 engaged or is engaged in any practice in violation of sections 408.570 to 408.600.

22 2. Each division director may issue such regulations as are necessary to
23 require the maintenance of records from which the conclusions required by this
24 section can be determined.

25 3. Each division director shall report annually to the governor and the
26 director of the department his findings made in accordance with the provisions
27 of this section and which shall include information reported under the provisions
28 of the Federal Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.), which
29 findings shall be made as to the total industry he regulates, and by each county
30 or city with a population in excess of two hundred fifty thousand. This report
31 shall be maintained by the division as a public document for a period of five
32 years.

33 4. The annual reports of the division directors shall state the method or
34 methods used by the division director to reach his conclusions both in
35 examination and analysis; and shall contain such facts as he deems necessary to
36 support those conclusions, including but not limited to:

37 (1) The information required to be obtained by the provisions of subsection
38 1 of this section;

39 (2) **As to the state financial institutions under the supervision**
40 **of the respective divisions, each division director shall report annually**
41 **to the governor and the director of the department, with regard to each**
42 **county or city with a population in excess of two hundred fifty**
43 **thousand the following:**

44 (1) The number and type of violations of sections 408.570 to 408.600
45 which are found to have occurred, a statement of the action or actions taken to
46 enforce the provisions of said sections, and the names of the financial institutions
47 which have been found upon a hearing to have violated the provisions of said
48 sections; **and**

49 [(3)] (2) The number and nature of all complaints received by the
50 department or division regarding alleged violations of any provision of sections
51 408.570 to 408.600 and the action taken on each complaint by the division.

52 **2. This report shall be maintained by each division as a public**
53 **document for a period of five years.**

408.600. 1. Each division director shall enforce the provisions of sections

2 408.570 to 408.600. With respect to state financial institutions which he
3 supervises, licenses or charters, each division director shall utilize the powers
4 granted him under the general statutory authority by which he regulates,
5 supervises, licenses, or charters such institutions, as well as the powers granted
6 him by sections 408.570 to 408.600. The director of the division of finance shall
7 enforce the provisions of sections 408.570 to 408.600 as they pertain to state
8 financial institutions not supervised, licensed or chartered by a division director,
9 and shall in that enforcement have such powers as are granted in said
10 sections. The enforcement powers granted by subsections 2 through 5 of this
11 section shall be utilized by the director of the division of finance concerning
12 national banks, by the director of [savings and loan supervision] **the division**
13 **of finance** concerning federal savings and loan associations, and by the director
14 of credit unions concerning federal credit unions.

15 2. Any person who alleges to have been aggrieved as a result of a violation
16 of section 408.575 or 408.580 may file a complaint with the appropriate division
17 director. Within ninety days of the receipt of such complaint, the division
18 director shall determine whether there is any reason to believe that a violation
19 of section 408.575 or 408.580 has occurred. If the division director determines
20 that there is such reason, then he shall undertake to resolve the complaint by
21 negotiation or he shall conduct a hearing in accordance with the provisions of
22 subsection 3 of this section, except that the hearing shall be held in the locality
23 where the alleged violation occurred.

24 3. If the division director[, on the basis of an examination, an
25 investigation of a complaint which has not been resolved by negotiation, a report
26 required to be filed by section 408.592, or any public document or information,]
27 has reason to believe that a violation of section 408.575 or 408.580 has occurred
28 or does exist, the division director shall conduct a hearing in accordance with
29 chapter 536. If the evidence establishes a violation of any provision of section
30 408.575 or 408.580, the division director may issue a cease and desist order
31 stating specifically the unlawful practice to be discontinued, which order shall be
32 served personally, or by certified mail. The decision of the division director shall
33 be appealable directly to the circuit court pursuant to chapter 536.

34 4. If, after an order of the division director has become final, the director
35 believes a violation of any provision of the order has occurred, he may seek an
36 injunction to prohibit such violations in any court of competent jurisdiction. For
37 each violation of such injunction, the court may assess a fine which may be

38 recovered with costs by the state in any court of competent jurisdiction in an
39 action to be prosecuted by the attorney general.

40 5. The remedies provided by this section shall not be interpreted as
41 exclusive remedies but shall be in addition to remedies otherwise available to the
42 director or to any individual damaged by a violation of sections 408.570 to
43 408.600.

[408.592. 1. Each state financial institution which is not
2 supervised, licensed or chartered by a division director, which
3 operates or has a place of business within a county having a
4 population in excess of two hundred fifty thousand or a city not
5 within a county and which originated an aggregate of five hundred
6 thousand dollars or more in residential real estate loans in
7 Missouri during the last calendar year shall, on or before a date of
8 ninety days after the end of the fiscal year of the institution, file
9 with the director of the division of finance an annual statement for
10 each such county or city showing separately the number and total
11 dollar amount of residential real estate loans both within and
12 outside of that county or city which were:

13 (1) Originated by that institution during the preceding
14 fiscal year;

15 (2) Purchased by that institution during the preceding fiscal
16 year; and

17 (3) Foreclosed by that institution during the preceding
18 fiscal year.

19 2. The information required to be filed under subsection 1
20 of this section shall be further itemized in order to clearly and
21 conspicuously disclose the following:

22 (1) The number and dollar amount of each item by census
23 tracts for residential real estate loans on property located within
24 that county or city;

25 (2) The number and dollar amount of each item for all
26 residential real estate loans on property located outside that county
27 or city.

28 3. The information required to be filed under subdivisions
29 (1) and (2) of subsection 1 shall also be itemized in order to clearly
30 and conspicuously disclose the following:

31 (1) The number and dollar amount of loans made for the
32 purchase of residential real estate which are insured under Title
33 II of the National Housing Act or under Title V of the Housing Act
34 of 1949 or which are guaranteed under Chapter 37 of Title 38,
35 United States Code;

36 (2) The number and dollar amount of loans made for the
37 purchase of residential real estate, including loans insured under
38 federal housing insurance programs;

39 (3) The number and dollar amount of loans made for the
40 repair, rehabilitation or remodeling of residential real estate.

41 4. Each statement filed under the provisions of this section
42 shall be filed on forms approved or furnished by the director of the
43 division of finance and shall be verified by two officers of the
44 institution. Wherever possible, the director of the division of
45 finance shall make the forms consistent with the disclosure forms
46 required under the Federal Home Mortgage Disclosure Act of 1975
47 (12 U.S.C. 2801 et seq.).

48 5. The director of the division of finance shall maintain the
49 statements filed under the provisions of this section for a period of
50 not less than five years and shall make the statements available to
51 the public for inspection during regular business hours and for
52 copying at a cost not to exceed the actual cost to the division.]

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