

REFERENCE TITLE: residential mortgage fraud

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1221

Introduced by
Senator Tibshraeny

AN ACT

AMENDING TITLE 13, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2320; RELATING TO FRAUD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 23, Arizona Revised Statutes, is amended
3 by adding section 13-2320, to read:

4 13-2320. Residential mortgage fraud: classification:
5 definitions

6 A. A PERSON COMMITS RESIDENTIAL MORTGAGE FRAUD IF, WITH THE INTENT TO
7 DEFRAUD, THE PERSON DOES ANY OF THE FOLLOWING:

8 1. KNOWINGLY MAKES ANY DELIBERATE MISSTATEMENT, MISREPRESENTATION OR
9 OMISSION DURING THE MORTGAGE LENDING PROCESS THAT IS RELIED ON BY A MORTGAGE
10 LENDER, BORROWER OR OTHER PARTY TO THE MORTGAGE LENDING PROCESS.

11 2. KNOWINGLY USES OR FACILITATES THE USE OF ANY DELIBERATE
12 MISSTATEMENT, MISREPRESENTATION OR OMISSION DURING THE MORTGAGE LENDING
13 PROCESS THAT IS RELIED ON BY A MORTGAGE LENDER, BORROWER OR OTHER PARTY TO
14 THE MORTGAGE LENDING PROCESS.

15 3. RECEIVES ANY PROCEEDS OR OTHER MONIES IN CONNECTION WITH A
16 RESIDENTIAL MORTGAGE THAT THE PERSON KNOWS RESULTED FROM A VIOLATION OF
17 PARAGRAPH 1 OR 2 OF THIS SUBSECTION.

18 4. FILES OR CAUSES TO BE FILED WITH THE OFFICE OF THE COUNTY RECORDER
19 OF ANY COUNTY OF THIS STATE ANY RESIDENTIAL MORTGAGE LOAN DOCUMENT THAT THE
20 PERSON KNOWS TO CONTAIN A DELIBERATE MISSTATEMENT, MISREPRESENTATION OR
21 OMISSION.

22 B. AN OFFENSE INVOLVING RESIDENTIAL MORTGAGE FRAUD SHALL NOT BE BASED
23 SOLELY ON INFORMATION THAT IS LAWFULLY DISCLOSED UNDER FEDERAL DISCLOSURE
24 LAWS, REGULATIONS AND INTERPRETATIONS RELATED TO THE MORTGAGE LENDING
25 PROCESS.

26 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 4 FELONY,
27 EXCEPT THAT A PERSON WHO ENGAGES OR PARTICIPATES IN A PATTERN OF RESIDENTIAL
28 MORTGAGE FRAUD OR WHO CONSPIRES TO ENGAGE OR PARTICIPATE IN A PATTERN OF
29 RESIDENTIAL MORTGAGE FRAUD IS GUILTY OF A CLASS 2 FELONY.

30 D. FOR THE PURPOSES OF THIS SECTION:

31 1. "MORTGAGE LENDING PROCESS" MEANS THE PROCESS THROUGH WHICH A PERSON
32 SEEKS OR OBTAINS A RESIDENTIAL MORTGAGE LOAN INCLUDING SOLICITATION,
33 APPLICATION, ORIGINATION, NEGOTIATION OF TERMS, THIRD-PARTY PROVIDER
34 SERVICES, UNDERWRITING, SIGNING, CLOSING AND FUNDING OF THE LOAN.

35 2. "PATTERN OF RESIDENTIAL MORTGAGE FRAUD" MEANS ONE OR MORE
36 MISSTATEMENTS, MISREPRESENTATIONS OR OMISSIONS THAT ARE MADE DURING THE
37 MORTGAGE LENDING PROCESS, THAT INVOLVE TWO OR MORE RESIDENTIAL PROPERTIES AND
38 THAT HAVE THE SAME OR SIMILAR INTENTS, RESULTS, ACCOMPLICES, VICTIMS OR
39 METHODS OF COMMISSION OR ARE OTHERWISE INTERRELATED BY DISTINGUISHING
40 CHARACTERISTICS.

41 3. "RESIDENTIAL MORTGAGE LOAN" MEANS A LOAN OR AGREEMENT TO EXTEND
42 CREDIT TO A PERSON THAT IS SECURED BY A DEED TO SECURE DEBT, SECURITY DEED,
43 MORTGAGE, SECURITY INTEREST, DEED OF TRUST OR OTHER DOCUMENT REPRESENTING A
44 SECURITY INTEREST OR LIEN ON ANY INTEREST IN ONE-TO-FOUR FAMILY RESIDENTIAL
45 PROPERTY AND INCLUDES THE RENEWAL OR REFINANCING OF ANY LOAN.