

By: Senator(s) Frazier

To: Business and Financial
Institutions

SENATE BILL NO. 2346

1 AN ACT TO PROVIDE CONSUMER PROTECTIONS FROM CERTAIN MORTGAGE
2 LENDING PRACTICES RELATING TO BALLOON PAYMENTS, NEGATIVE
3 AMORTIZATION AND PREPAYMENT PENALTIES; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** (1) **Definitions.** In this act:

6 (a) "Bridge loan" means temporary or short-term
7 financing requiring payment of only interest until the entire
8 unpaid balance is due.

9 (b) "Home loan" means a loan that is:

10 (i) Made to one or more individuals for personal,
11 family, or household purposes; and

12 (ii) Secured in whole or part by:

13 1. A manufactured home, as defined under
14 Mississippi law, used or to be used as the borrower's principal
15 residence; or

16 2. Real property improved by a dwelling
17 designed for occupancy by four (4) or fewer families and used or
18 to be used as the borrower's principal residence.

19 (c) "Restructure" means a change in the payment
20 schedule or other terms of a home loan as a result of the
21 borrower's default.

22 (d) "High-cost home loan" means a loan that:

23 (i) Is made to one or more individuals for
24 personal, family, or household purposes;

25 (ii) Is secured in whole or part by:



26 1. A manufactured home as defined under
27 Mississippi law, used or to be used as the borrower's principal
28 residence; or

29 2. Real property improved by a dwelling
30 designed for occupancy by four (4) or fewer families and used or
31 to be used as the borrower's principal residence;

32 (iii) Has a principal amount equal to or less than
33 one-half (1/2) of the maximum conventional loan amount for first
34 mortgages as established and adjusted by the Federal National
35 Mortgage Association;

36 (iv) Is not:

37 1. A reverse mortgage; or

38 2. An open-end account.

39 (v) Is a credit transaction described by 12 Code
40 of Federal Regulations (CFR), Section 226.32, as amended, except
41 that the term includes a residential mortgage transaction, as
42 defined by 12 CFR, Section 226.2, as amended, if the total loan
43 amount is Twenty Thousand Dollars (\$20,000.00) or more and:

44 1. The annual percentage rate exceeds the
45 rate indicated in 12 CFR, Section 226.32(a)(1)(i), as amended; or

46 2. The total points and fees payable by the
47 consumer at or before loan closing will exceed the amount
48 indicated in 12 CFR, Section 226.32(a)(1)(ii), as amended.

49 (e) "Points and fees" has the meaning assigned by 12
50 CFR, Section 226.32(b), as amended.

51 (2) **Applicability.** This act does not apply to:

52 (a) A reverse mortgage; or

53 (b) An open-end account.

54 (3) **Limitations.** (a) Balloon payment. A high-cost home
55 loan may not contain a provision for a scheduled payment that is
56 more than twice as large as the average of earlier scheduled
57 monthly payments, unless the balloon payment becomes due not less
58 than sixty (60) months after the date of the loan. This



59 prohibition does not apply if the payment schedule is adjusted to
60 account for the seasonal or otherwise irregular income of the
61 borrower or if the loan is a bridge loan in connection with the
62 acquisition or construction of a dwelling intended to become the
63 borrower's principal dwelling.

64 (b) Negative amortization. A high-cost home loan may
65 not provide for a payment schedule with regular periodic payments
66 that cause the principal balance to increase, except that this
67 section does not prohibit negative amortization as a consequence
68 of a temporary forbearance, bridge loan, or restructure sought by
69 the borrower.

70 (c) Prepayment penalties. A lender may not make a
71 high-cost home loan containing a provision for a prepayment
72 penalty.

73 (d) Lending without home-ownership counseling. A
74 lender may not make a high-cost home loan without first receiving
75 certification from an approved counselor that the borrower has
76 received counseling on the advisability of the loan transaction
77 and the appropriate loan for the borrower.

78 **SECTION 2.** This act shall take effect and be in force from
79 and after July 1, 2009.

