House Legislative Analysis Section

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BIWEEKLY MORTGAGE PAYMENTS ACCOUNTS

House Bill 4106 with committee amendments
First Analysis (9-28-89)

Sponsor: Rep. William R. Keith
Committee: Corporations and Finance

THE APPARENT PROBLEM:

Public Act 186 of 1987 amended the usury law with regard to biweekly payment mortgages (mortgages on which payments are made every two weeks). Under that act, a mortgage lender may, as a condition of making such a loan, require the borrower to maintain an interest-bearing account in a depository institution for the purpose of making the payments through automatic withdrawals. Evidently, the requirement that the account be interest-bearing is creating problems for banks. Banks are prohibited by federal law from paying interest on regular checking accounts, but most borrowers prefer that the payments be deducted from their checking accounts. In addition, according to committee testimony, some smaller banks have servicing arrangements with out-of-state institutions that require the transactions to be on "demand deposit," that is, checking, accounts. Bankers seek legislation that will allow banks to offer mortgages where biweekly payments are deducted automatically from a client's non-interest-bearing checking account.

THE CONTENT OF THE BILL:

Under the usury law, if a depository institution requires as a condition of making a bi-weekly payment mortgage loan that an account be maintained for automatic payments, that account must be interest-bearing. Under the bill, if an institution did not offer interest-bearing transaction accounts, or if it did not generally offer automatic withdrawals from interest-bearing accounts, a non-interest-bearing checking account could be maintained for the purpose of making the biweekly payments.

MCL 438.31c

FISCAL IMPLICATIONS:

The Financial Institutions Bureau of the Department of Commerce says that the bill has no fiscal implications. (9-27-89)

ARGUMENTS:

For:

The bill would ease a restriction in the usury law that makes it difficult for some banks to establish systems where payments on biweekly mortgages are automatically deducted from borrowers' accounts. At present, such accounts must be interest-bearing, which makes deductions from checking accounts problematic. Under the bill, payments could be deducted from non-interest-bearing checking accounts if automatic deductions from other sorts of accounts were not feasible.

POSITIONS:

The Financial Institutions Bureau of the Department of Commerce supports the bill with the committee amendments. (9-27-89)

The Michigan Bankers Association supports the bill. (9-27-89)