



**House  
Legislative  
Analysis  
Section**

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***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. Most borrowers prefer that the payments be deducted from their checking accounts, but banks are prohibited by federal law from paying interest on regular 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. The bill would require a financial institution to disclose that it has interest-bearing accounts available and that it does not require the account (that is, the account from which mortgage payments are deducted) to be maintained at that institution.

MCL 438.31c

***FISCAL IMPLICATIONS:***

The Financial Institutions Bureau of the Department of Commerce says that the bill has no fiscal implications. (1-19-90)

***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.

**BIWEEKLY MORTGAGE PAYMENTS ACCOUNTS**

House Bill 4106 as passed by the House **RECEIVED**  
Second Analysis (1-25-90)

MAR 05 1990

Sponsor: Rep. William R. Keith

Committee: Corporations and Finance Mich. State Law Librar

***Against:***

As passed by the House, the bill contains unreasonable requirements for disclosures. It makes little sense for a financial institution to have to disclose the availability of accounts which could not be used for the automatic deductions. The bill would complicate closings by adding yet another piece of paper to be signed.

***Response:*** Many people may have the misconception that automatic deductions for mortgage payments must be made from an account maintained with the lender. The disclosure required by the bill would ensure that borrowers are not misled. Further, there is nothing that requires the disclosure to be made at closing; on the contrary, it could easily be made at the time of the loan application.

***POSITIONS:***

The Financial Institutions Bureau of the Department of Commerce supports the bill. (1-19-90)

The Michigan Bankers Association does not support the bill in the form in which it passed the House. (1-25-90)

H.B. 4106 (1-25-90)