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BILL ANALYSIS

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House Bill 4727 (as reported without amendment)

Sponsor: Representative William R. Keith

House Committee: Corporations and Finance

Senate Committee: Commerce and Technology

Date Completed: 11-4-87

RATIONALE

The general usury Act generally prohibits a lender from requiring a borrower to maintain a deposit as a condition of making a loan. With certain exceptions, the Act also bars a lender whose portfolio has a large proportion of mortgage loans from requiring an account as a condition of the mortgage agreement. An increasingly popular method of mortgage payment is the biweekly, rather than the monthly, mortgage. By making smaller mortgage payments every two weeks, rather than larger ones once a month, a borrower can build equity faster. Some depository institutions would like to be permitted to require accounts as a condition of biweekly payment mortgages so that payments could be transferred automatically.

lenders received regular payments while adequately protecting borrowers by demanding that the lender-required accounts be interest-bearing and by prohibiting lenders from requiring deposits in amounts greater than those necessary to make the payments.

Response: To ensure that borrowers are treated fairly, the bill should require the automatically transferred payments to be applied immediately, and should specify that interest be charged only on the unpaid balance remaining after the last biweekly payment.

Legislative Analyst: P. Affholter

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

H.B. 4727 (11-4-87)

CONTENT

House Bill 4727 would amend the general usury Act to specify that in the case of a mortgage loan or land contract providing for biweekly payments, a regulated depository financial institution, its service corporations, subsidiaries, or affiliates could require (or have required) as a condition of making the loan that the borrower maintain an interest bearing account with any depository institution for the purpose of making the payments through automatic withdrawals. The borrower could not be required to maintain an account balance in excess of that necessary to meet the biweekly payments as they became due.

The bill also specifies that a subsection of the Act limiting the rate of interest on an extension of credit secured by a lien on a mobile home could not prohibit such an extension "made on terms and at a rate of interest specifically authorized by another law of this state or the United States".

A "regulated depository financial institution" would be a State- or Federally-chartered bank, savings and loan association, or credit union. An "affiliate" would be "a person other than a natural person that directly or indirectly through 1 or more intermediaries is controlled by or is under common control of a regulated depository financial institution".

MCL 438.31c

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

The bill would allow mortgage lenders to place a sensible restriction on biweekly mortgages. It would ensure that