

1 2. An insurer.

2 (2) A lender may not require a borrower, as a condition to receiving or
3 maintaining a loan secured by a first mortgage or first deed of trust, to provide or
4 purchase property insurance coverage against risks to any improvements on any real
5 property in an amount exceeding the replacement value of the improvements on the
6 real property.

7 (3) A lender may not require a borrower, as a condition to receiving or
8 maintaining a loan secured by a first mortgage or first deed of trust, to provide or
9 purchase flood insurance coverage in an amount exceeding the replacement value of
10 the improvements on the real property.

11 (4) In determining the replacement value of the improvements on any
12 real property, the lender [may]:

13 (i) [Accept] MAY ACCEPT the value placed on the improvements by
14 the insurer; [or] AND

15 (ii) [Use] MAY NOT USE the value placed on the improvements that
16 is determined by the lender's appraisal of the real property.

17 (5) ANY PROPERTY INSURANCE COVERAGE REQUIRED BY A LENDER
18 SHALL BEAR A REASONABLE RELATION TO THE EXISTING RISK OF LOSS.

19 [(5)] (6) A lender may not require that the insurance be purchased
20 through a particular insurance producer or insurance company.

21 (b) (1) A violation of this section shall entitle the borrower to:

22 (i) Seek an injunction to prohibit the lender who has engaged or is
23 engaging in the violation from continuing or engaging in the violation;

24 (ii) Reasonable attorney's fees; and

25 (iii) Damages directly resulting from the violation.

26 (2) A violation of this section does not affect the validity of the first
27 mortgage or first deed of trust securing the loan.

28 12-410.

29 (f) (1) (i) In this paragraph, "property insurance coverage" means
30 property insurance against losses caused by perils that commonly are covered in
31 insurance policies described with terms similar to "standard fire" or "standard fire
32 with extended coverage".

33 (ii) A lender may not require a borrower, as a condition to receiving
34 or maintaining a secondary mortgage loan, to provide or purchase property insurance
35 coverage against risks to any improvements on any real property in an amount
36 exceeding the replacement value of the improvements on the real property.

1 (iii) In determining the replacement value of the improvements on
2 any real property, the lender [may]:

3 1. [Accept] MAY USE the value placed on the improvements
4 by the insurer; [or] AND

5 2. [Use] MAY NOT USE the value placed on the
6 improvements that is determined by the lender's appraisal of the real property.

7 (iv) Any property insurance coverage required by a lender shall bear
8 a reasonable relation to the existing risk of loss.

9 (v) A violation of this paragraph or of subsection (h) of this section
10 shall entitle the borrower to:

11 1. Seek an injunction to prohibit the lender who has engaged
12 or is engaging in the violation from continuing or engaging in the violation;

13 2. Reasonable attorney's fees; and

14 3. Damages directly resulting from the violation.

15 (vi) A violation of this paragraph or of subsection (h) of this section
16 does not affect the validity of the mortgage or deed of trust securing the secondary
17 mortgage loan.

18 12-909.

19 (e) (1) In this subsection, "property insurance coverage" means property
20 insurance against losses caused by perils that commonly are covered in insurance
21 policies described with terms similar to "standard fire" or "standard fire with
22 extended coverage".

23 (2) (i) A credit grantor may not require a borrower, as a condition to
24 receiving or maintaining a loan secured by a first lien, to provide or purchase
25 property insurance coverage against risks to any improvements on any real property
26 in an amount exceeding the replacement value of the improvements on the real
27 property.

28 (ii) In determining the replacement value of the improvements on
29 any real property, the [lender may] CREDIT GRANTOR:

30 1. [Accept] MAY ACCEPT the value placed on the
31 improvements by the insurer; [or] AND

32 2. [Use] MAY NOT USE the value placed on the
33 improvements that is determined by the [lender's] CREDIT GRANTOR'S appraisal of
34 the real property.

35 (3) ANY PROPERTY INSURANCE COVERAGE REQUIRED BY A CREDIT
36 GRANTOR SHALL BEAR A REASONABLE RELATION TO THE EXISTING RISK OF LOSS.

1 [(3)] (4) A violation of this subsection shall entitle the borrower to:

2 (i) Seek an injunction to prohibit the credit grantor who has
3 engaged or is engaging in the violation from continuing or engaging in the violation;

4 (ii) Reasonable attorney's fees; and

5 (iii) Damages directly resulting from the violation.

6 [(4)] (5) A violation of this subsection does not affect the validity of the
7 first lien securing the loan.

8 12-1007.

9 (f) (1) In this subsection, "property insurance coverage" means property
10 insurance against losses caused by perils that commonly are covered in insurance
11 policies described with terms similar to "standard fire" or "standard fire with
12 extended coverage".

13 (2) (i) A credit grantor may not require a borrower, as a condition to
14 receiving or maintaining a loan secured by a first lien, to provide or purchase
15 property insurance coverage against risks to any improvements on any real property
16 in an amount exceeding the replacement value of the improvements on the real
17 property.

18 (ii) In determining the replacement value of the improvements on
19 any property, the [lender may] CREDIT GRANTOR:

20 1. [Accept] MAY ACCEPT the value placed on the
21 improvements by the insurer; [or] AND

22 2. [Use] MAY NOT ACCEPT the value placed on the
23 improvements that is determined by the [lender's] CREDIT GRANTOR'S appraisal of
24 the real property.

25 (3) ANY PROPERTY INSURANCE COVERAGE REQUIRED BY A CREDIT
26 GRANTOR SHALL BEAR A REASONABLE RELATION TO THE EXISTING RISK OF LOSS.

27 [(3)] (4) A violation of this subsection shall entitle the borrower to seek:

28 (i) An injunction to prohibit the credit grantor who has engaged or
29 is engaging in the violation from continuing or engaging in the violation;

30 (ii) Reasonable attorney's fees; and

31 (iii) Damages directly resulting from the violation.

32 [(4)] (5) A violation of this subsection does not affect the validity of the
33 first lien securing the loan.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 2005.