1983

Session Law 83-267

Florida Senate & House of Representatives
FLOIDA INFORMATION ASSOCIATES, INC.
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FLOIDA SESSION LAW HISTORY/DOCUMENTATION ABSTRACT

FIA RESEARCH PROJECT NO. L88-031
SESSION LAW/SECTION NO(S). 85-267, Section 8
AFFECTED STATUTE(S) 201.08(1)
PRIME BILL NO. HB 1106
PRIME BILL SPONSOR House Commerce Committee
IDENTICAL/SIMILAR BILL NOS. HB 867, SB 1135

NARRATIVE/COMMENTS:

This law simply deleted the phrase "and secured by a one to four family structure", from 201.08(1). The reason for this deletion was to expand future advances "to cover commercial mortgage loans as well." (See House Commerce Committee final Staff Summary of HB 1106, 6/9/85, I, paragraph 2). This deletion appeared in the second draft of House Commerce Committee Proposed Committee Bill (PCB) 85-26, which was later filed as HB 1106, and did not change any throughout the remaining legislative process.

RECOMMENDATIONS FOR FURTHER RESEARCH:

Three (3) tapes of the House Commerce Committee were identified as having possible relevance. An estimated 2 to 3 hours of research time would be required to review these tapes.
DOCUMENTATION CHECKLIST:

NOTE: All documentation obtained from the Florida State Archives is cited by the series and box number, i.e., "FSA S.19/200." "na" indicates that either that particular documentation does not apply or is non-existent.

* Laws of Florida: Chapter 83-267, Section 8
* Florida Statutes: (see statute/law comparison)
* History of Legislation: 1983; HB 1106
* Prime Bill Version(s): HB 1106
* Identical/Similar Bills: na
* House Journal: na
* Senate Journal: na
* Committee Staff Analyses and Reports:
  (2) __________. Talk Sheet for HB 1106 (1983), undated. (Ibid.).
  (3) __________. Final Staff Summary, HB 1106 (1983), 6/9/83. (Ibid.).
  (4) House Finance and Taxation Committee, Fiscal Note on HB 1106 (1983), 5/19/83. (On file with the committee).
* Committee Meeting Tapes:

Not reviewed, but identified as having possible application:

House Commerce Committee, Banking and Finance Subcommittee, 3/29/83 (HB 1106), 2 tapes; Full Committee, 4/5/83 (HB 1106), 1 tape. (FSA S. 414/435)

* Floor Debate Tapes: na
This law simply deleted the phrase "one to four family structures" from 201.08(1). The reason for this deletion was to expand future statutes "to include commercial, industrial, or insurance." A note from the Committee on Commerce and Industry stated, "This deletion appeared in the 2nd draft of House Bill 33-26, which was later filed as HB 1106, and did not change any through the remainder of the legislative process.

Recommendations for further research:

3 types of the in an it as a or It has been possible relevance, in the this and additional from the extended to review these types.
DOCUMENTATION CHECKLIST:

* Laws of Florida: Chapter 83-267 Sec. 8
* Florida Statutes: not copied Sec. Statute/Law Commission
* History of Legislation: 1982: H8 1106
* Prime Bill Version(s): H8 1106
* Identical/Similar Bills: ______________________________
* House Journal: ______________________________
* Senate Journal: ______________________________
* Committee Staff Analyses and Reports: (FSA S/box)
  1. HCMR Staff Summary & Analysis, PC8 83-26 [H8 1106]
     5/13/83 rev. 4/6/83
     5/19/1128
  2. Talk sheet for H8 1106 (md)
  3. Final Staff Summary, H8 1106
  4. HFTX, FN on H8 1106 5/14/83
     cont. file
* Committee Meeting Tapes: Not reviewed, but 10 taped having possible relevance
  HCMR Hearing & Committee 3/29/83 7:20 4/4/83
  Full (mnt) 4/5/83 1 tape
* Floor Debate Tapes: ______________________________
* Other Documentation:
  ____________________________________________________________________
HCMR - PCB 83-26

4/5/83 - Full cnt.
3/29/83 - Banking & Commerce Subcm

Not in 1st Draft (n.d.)
In 2nd Draft striking "and secured by a one to four Family Structure." added by Amm 2
at 3/29/83 subcm. note.

4/14/83
2 Tapes 3/29/83 - Banking & Commerce Subcm
1 tape 4/5/83 - Full cnt.
An act relating to the Department of General Services; creating s. 255.291, Florida Statutes, creating the Architects Incidental Trust Fund, providing for purpose of fund; providing for establishment of assessment rates; amending s. 255.04, Florida Statutes, restricting use of sole source bids, providing an effective date

Be It Enacted by the Legislature of the State of Florida:

Section 1 Section 255.291, Florida Statutes, is created to read:

1. There is hereby created the Architects Incidental Trust Fund for the purpose of providing sufficient funds for the operation of the Bureau of Construction of the Division of Building Construction and Property Management.

2. The division is hereby authorized to levy and assess an amount necessary to cover the cost of administration by the Bureau of Construction of fixed capital outlay projects on which they serve as owner representative on behalf of the state. The assessment rate is to be provided in the General Appropriations Act and statement of intent and shall be based on estimated operating cost projections for the services rendered. The total assessment shall be transferred into the Architects Incidental Trust Fund at the beginning of each fiscal year.

Section 2. Section 255.04 is amended to read:

255.04 Preference to home industries in building public buildings.--Every official board in the state, whether of the state, a county or municipality, which may be charged with the duty of erecting or constructing any public administrative or institutional building, shall give preference, in the purchase of material and in letting contracts for the construction of such building, to materialmen, contractors, builders, architects and laborers, who reside within the state, whenever such material can be purchased or the services of such materialmen, contractors, builders, architects and laborers, can be employed, at no greater expense than that which would obtain if such purchase was made, or contract let, or such employment given, to a person residing beyond the limits of the state; provided, however, that this section in no way prohibits the right of the said official boards to compare quality of materials proposed for purchase and to compare qualifications, character, responsibility and fitness of materialmen, contractors, builders and architects proposed for employment in their consideration of the purchase of materials or employment of persons. Notwithstanding the foregoing, any official board of county commissioners, school board, city council, or city councilmen, or any other public official, state board, or state agency charged with the letting of contracts or purchase of materials for the construction, modification, alteration or repair of any publicly owned facility shall specify the use of materials or systems by a sole source.

Section 3. This act shall take effect July 1, 1983.

Approved by the Governor June 24, 1983.

Filed in Office Secretary of State June 27, 1983.

An act relating to mortgages; amending s. 95.281(1)(b) and (2)(b), Florida Statutes, permitting mortgagees to record and secure obligations of more than 20 years when the original maturity of the obligation secured by a mortgage is not ascertainable from the record of it; amending ss. 199.0527(7)(d), 201.08(1), and 201.09(3), Florida Statutes, 1982 Supplement, eliminating a requirement that certain mortgages be secured by a one-to-four family structure with respect to the law governing returns on...
WHEREAS, many elderly persons in Florida have a large equity in their homes, and
WHEREAS, the same elderly persons are in need of income for necessary living expenses, and
WHEREAS, the Legislature is desirous of enabling these elderly persons to use their equity without requiring them to leave their homes, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. The Department of Community Affairs is hereby directed to conduct a study into the use of reverse annuity mortgages or similar instruments in this state; providing an appropriation; requiring a written report to the Legislature; providing an effective date

WHEREAS, many elderly persons in Florida have a large equity in their homes, and
WHEREAS, the same elderly persons are in need of income for necessary living expenses, and
WHEREAS, the Legislature is desirous of enabling these elderly persons to use their equity without requiring them to leave their homes, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 2. There is hereby appropriated from the General Revenue Fund to the Department of Community Affairs the sum of $35,000 to conduct the study required by section 1.

Section 3. The study shall be completed by January 15, 1984, and a written report shall be provided to the Legislature including the feasibility of utilizing reverse annuity mortgages or similar instruments in the state and a list of recommendations on specific legislation or informational activities needed to implement or encourage the use of such instruments.

Section 4. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 95.281, Florida Statutes, are amended to read:

95 281 Limitations; instruments encumbering real property.--

(b) If the final maturity of an obligation secured by a mortgage is not ascertainable from the record of it, 20 years after the date of the mortgage, unless prior to such time the holder of the mortgage:

1. Re-records the mortgage and includes a copy of the obligation secured by the mortgage so that the final maturity is ascertainable; or

2. Records a copy of the obligation secured by the mortgage from which copy the final maturity is ascertainable and by affidavit identifies the mortgage by its official recording data and certifies that the obligation is the obligation described in the mortgage; in which case the lien shall terminate 5 years after the date of maturity.

(2) If an extension agreement executed by the mortgagee or his successors in interest and the mortgagor or his successors in interest is recorded, the time shall be extended as follows

(b) If the final maturity of the obligation, as extended, secured by the mortgage is not ascertainable from the record of the extension agreement, 20 years after the date of the extension agreement, unless prior to such time the holder of the mortgage.

1. Re-records the mortgage and includes a copy of the obligation, as extended, secured by the mortgage so that the final maturity is ascertainable; or

2. Records a copy of the obligation, as extended, secured by the mortgage from which copy the final maturity is ascertainable and by affidavit identifies the mortgage by its official recording data and certifies that the obligation is the obligation described in the mortgage; in which case the lien shall terminate 5 years after the date of maturity as extended

Section 5. Paragraph (d) of subsection (7) of section 199.052, Florida Statutes, 1982 Supplement, is amended to read

199.052 Returns.--

(d) If the tax, deed of trust, or other lien subject to the tax levied by this chapter secures future advances, as provided in s. 697.04, the tax shall be paid at the time of execution on the initial debt or obligation secured, excluding future advances, at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced. Any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months and secured by a one-to-four family structure shall, however, be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. The trustee under any such deed of trust or the owner of any such mortgage or other instrument evidencing such lien making any
such advance shall pay the tax prescribed in this chapter in respect to the amount of such advance, and the clerk shall place a notation on the record of the mortgage, deed of trust, or other instrument evidencing such lien, or upon any supplemental instrument evidencing such advance and offered for recording, showing the amount of tax received. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him is guilty of a misdemeanor and upon conviction shall be fined accordingly. The mortgage, deed of trust, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

Section 6. Paragraph (a) of subsection (5) of section 199.062, Florida Statutes, is amended to read:

199.062 Information reports; companies, corporations, and brokers --

(5)(a) If any company, corporation, or broker shall fail to produce such information as described in this section in the manner required or within the time required, that company, corporation, or broker shall pay a penalty. The penalty shall be the lesser of $10 for each Florida stockholder record or Florida customer record, as the case may be, or $100 plus $50 for each month or portion thereof from the date due until satisfactory filing with the department, with the stockholders, or with both, has been made.

Section 7. Paragraph (a) of subsection (6) of section 199.062, Florida Statutes, as amended by chapters 82-83 and 82-227, Laws of Florida, which takes effect July 1, 1983, is amended to read:

199.062 Information reports; companies, corporations, and brokers --

(6)(a) Failure to file the reports required by subsection (1) or subsection (4) within the time required shall subject the company, corporation, or broker to a penalty. The penalty shall be the lesser of $10 for each Florida stockholder record or Florida customer record, as the case may be, or $100 plus $50 for each month or portion thereof from the date due until satisfactory filing with the department.

Section 8. Subsection (1) of section 201.08, Florida Statutes, 1982 Supplement, is amended to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.--

(1) On promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, on each $100 of the indebtedness or obligation evidenced thereby the tax shall be 15 cents on each $100 of fraction thereof. On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, on each $100 of the indebtedness or obligation evidenced thereby the tax shall be 15 cents on each $100 or fraction thereof. Mortgages, including, but not limited to, mortgages executed without the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate. When there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recording. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid and the proper state, or recorded in the state, which incorporates the certificate of indebtedness subject to the tax levied by this section secures future advances, as provided in s. 697.04, in the event the tax is paid at the time of recording on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the foregoing general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months and secured by a one-to-four family structure shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

Section 9. Subsection (3) of section 201.09, Florida Statutes, 1982 Supplement, is amended to read:

201.09 Renewal of existing promissory notes and mortgages; exemption --

(1) When any promissory note is given in renewal of any existing promissory note, which said renewal note only extends or continues the identical contractual obligations of the original promissory note and evidences part or all of the original indebtedness evidenced thereby, not including any accumulated interest thereon and without enlargement in any way of said original contract and obligation, such renewal note shall not be subject to taxation under this chapter if such renewal note has attached to it the original promissory note with canceled stamps affixed thereon showing full payment of the tax due thereon.

(3) A note given in renewal of an adjustable rate note or mortgage which has an initial interest rate adjustment interval of not less than 6 months and is secured by a one-to-four family structure shall be subject to taxation only to the extent of any accrued interest upon which taxes have not previously been paid, notwithstanding the provisions contained in subsection (1).

Section 10. Subsection (5) of section 665.0731, Florida Statutes, is amended to read:

665.0731 Real estate loan plans.--Real estate loans eligible for classification under the real estate loan requirement of s. 665.0711
may be written upon the following plan, or upon any other loan plan approved by the department:

(5) LIEN OF MORTGAGE.—Any mortgage that can be made by an association under the provisions of this chapter may be made to secure existing debts or obligations, to secure debts or obligations created simultaneously with the execution of the mortgage, or to secure future advances pursuant to s. 697.04 All such debts, obligations, and future advances shall, from and as of the time the mortgage is filed for record as provided by law, secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of the lender, or otherwise, as are made within 20 years from the date thereof, to the same extent as if such future advances were made on the date of the execution of such mortgage or other instrument, although there may be no advance made at the time of the execution of such mortgage or other instrument and although there may be no indebtedness outstanding at the time any advance is made. Such lien, as to third persons without actual notice thereof, shall be valid as to all such indebtedness and future advances from the time the mortgage or other instrument is filed for record as provided by law. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed a maximum principal amount that must be specified in such mortgage or other instrument, plus interest thereon, except that the mortgagor or his successor in title is authorized to file for record, and the same shall be recorded, a notice limiting the amount of optional future advances to be made under the mortgage, and provided further, in the case of an open-end or revolving credit agreement, that the mortgagor shall surrender to the mortgagee all credit cards, checks, or other devices used to obtain revolving credit, and any disbursements made for the payment of taxes, levies, or insurance on the property covered by the lien, and any advances or disbursements made under a construction loan agreement referred to in a mortgage, to enable completion of the contemplated improvement, with interest on such advances or disbursements, are secured by the mortgage or other instrument even though the mortgagee is not at the time the mortgage or other instrument is filed for record as provided by law.

Section 11. Subsection (1) of section 697.04, Florida Statutes, is amended to read:

697.04 Future advances may be secured.—

(1) Hereafter, any mortgage or other instrument given for the purpose of creating a lien on real property may, and when so executed, shall, secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of the lender, or otherwise, as are made within 20 years from the date thereof, to the same extent as if such future advances were made on the date of the execution of such mortgage or other instrument, although there may be no advance made at the time of the execution of such mortgage or other instrument and although there may be no indebtedness outstanding at the time any advance is made. Such lien, as to third persons without actual notice thereof, shall be valid as to all such indebtedness and future advances from the time the mortgage or other instrument is filed for record as provided by law. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed a maximum principal amount that must be specified in such mortgage or other instrument, plus interest thereon, except that the mortgagor or his successor in title is authorized to file for record, and the same shall be recorded, a notice limiting the amount of optional future advances to be made under the mortgage, and provided further, in the case of an open-end or revolving credit agreement, that the mortgagor shall surrender to the mortgagee all credit cards, checks, or other devices used to obtain revolving credit, and any disbursements made for the payment of taxes, levies, or insurance on the property covered by the lien, and any advances or disbursements made under a construction loan agreement referred to in a mortgage, to enable completion of the contemplated improvement, with interest on such advances or disbursements, are secured by the mortgage or other instrument even though the mortgagee is not at the time the mortgage or other instrument is filed for record as provided by law.

Section 12. Subsection (2) of section 697.05, Florida Statutes, is amended to read:

697.05 Balloon mortgages; scope of law; definition; requirements as to contents; penalties for violations; exemptions.—

(2)(a) Every mortgage in which the final payment or the balance due and payable upon maturity is greater than twice the amount of the regular monthly or periodic payment of the said mortgage shall be deemed a balloon mortgage, and, except as provided in paragraph (c), shall have printed or clearly stamped on such mortgage:

This is a balloon mortgage and the final payment or the balance due upon maturity is . . . . together with accrued interest, if any, and all advancements made by the mortgagee under the terms of this mortgage.

(b) This legend including the total amount due upon maturity shall appear at the top of the first page or face sheet of the mortgage and also immediately above the signature of the mortgagor. The legend shall be conspicuously printed or stamped in type as large as the largest type used in the text of the instrument, either as an overprint or by a rubber stamp impression.

(c) In the case of any balloon mortgage securing the payment of an obligation the rate of interest on which is variable or is to be adjusted on a stated or unstated periodic basis, the balance due upon maturity shall be calculated on the assumption that the initial rate of interest will apply for the entire term of the mortgage, and the legend shall disclose that the stated balance due upon maturity is an approximate amount based on such assumption. A legend in the following form shall be sufficient to comply with the requirements of this section:

This is a balloon mortgage securing a variable (adjustable, renegotiable) rate obligation. Assuming that the initial rate of interest were to apply for the entire term of the mortgage, the final payment or the balance due upon maturity would be approximately . . . . together with accrued interest, if any, and all advancements made by the mortgagee under the terms of this mortgage. The actual balance due upon maturity may vary depending on changes in the rate of interest.

Section 13. Subsection (5) of section 697.05, Florida Statutes, is amended to add a new paragraph (e), to read:

(e) Any mortgage securing an extension of credit in excess of $500,000.00.

Section 14. This act shall take effect upon becoming a law.
year, and, except as necessary for application to the 1983 tax year, the provisions of said section shall expire and be void and inoperative on July 1, 1983; and section 7 of this act shall take effect July 1, 1983.

Approved by the Governor June 24, 1983.

Filed in Office Secretary of State June 27, 1983.

An act relating to optional coverage for mental and nervous disorders; amending s. 627.668(1) and (2)(b), Florida Statutes, 1982 Supplement, providing that the level of benefits with respect to optional alternative coverage for mental and nervous disorders under certain group contracts shall be the minimum level of benefits offered by the insurer to an insured; providing that outpatient treatment coverage applies to licensed physicians, licensed psychologists, and mental health professionals, providing an effective date.

Be it enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) and paragraph (b) of subsection 2 of section 627.668, Florida Statutes, 1982 Supplement, is amended to read:

627.668 Optional coverage for mental and nervous disorders required; exception --

1. Insurers, health maintenance organizations, and nonprofit hospital and medical service plan corporations transacting group health insurance or providing prepaid health care in this state shall make available to the policyholder as part of the application, for an appropriate additional premium under group hospital and medical expense-incurred insurance policies, under group prepaid health care contracts, and under group hospital and medical service plan contracts, the benefits or level of benefits specified in subsection (2) for the necessary care and treatment of mental and nervous disorders, as defined in the standard nomenclature of the American Psychiatric Association, subject to the right of the applicant for a group policy or contract to select any alternative benefits or level of benefits as may be offered by the insurer, health maintenance organization, or service plan corporation provided that, if alternative inpatient, outpatient or partial hospitalization benefits are selected, then such benefits shall not be less than the level of benefits required under subsection (2)(a), (b) or (c), respectively.

2. Under group policies or contracts, inpatient hospital benefits, partial hospitalization benefits, and outpatient benefits consisting of durational limits, dollar amounts, deductibles, and coinsurance factors shall not be less favorable than for physical illness generally, except that:

(a) Inpatient benefits may be limited to not less than 30 days per benefit year as defined in the policy or contract. If inpatient

(b) Outpatient benefits may be limited to $1,000 for consultations with a licensed physician, a licensed psychologist, and a licensed or an appropriate mental health professional as defined in the policy or contract. If benefits are provided beyond the $1,000 per benefit year, the duration limits, dollar amounts, and coinsurance factors thereof need not be the same as applicable to physical illness generally.

(c) Partial hospitalization benefits shall be provided under the direction of a licensed physician. For purposes of this part, "partial hospitalization services" are defined as those services offered by a program accredited by the Joint Commission on Accreditation of Hospitals (JCAH) or in compliance with equivalent standards Alcohol rehabilitation programs accredited by the Joint Commission on Accreditation of Hospitals or approved by the state and licensed drug abuse rehabilitation programs shall also be qualified providers under this section. In any benefit year, if partial hospitalization services or a combination of inpatient and partial hospitalization are utilized, the total benefits paid for all such services shall not exceed the costs of 30 days of inpatient hospitalization for psychiatric services, including physician fees, which prevail in the community in which the partial hospitalization services are rendered. If partial hospitalization services benefits are provided beyond the limits set forth in this paragraph, the duration limits, dollar amounts, and coinsurance factors thereof need not be the same as those applicable to physical illness generally.

Section 2. This act shall apply to all policies issued or renewed on or after October 1, 1983.

Section 3. This act shall take effect on October 1, 1983.

Approved by the Governor June 24, 1983.

Filed in Office Secretary of State June 27, 1983.

An act relating to the Hospital Cost Containment Board; amending s. 395.017(3), Florida Statutes, 1982 Supplement; authorizing disclosure of patient records by hospitals to the Hospital Cost Containment Board; adding paragraph (m) to s. 119.07(3), Florida Statutes, 1982 Supplement, providing for the confidentiality of certain patient records in possession of the board; amending s. 395.503(1), Florida Statutes, 1982 Supplement; providing for the appointment of two representatives to the board, each representing a major nonhealth and noninsurance Florida employer; amending s. 395.504(1), Florida Statutes, 1982 Supplement, providing for the submission of case-mix data to the board and specifying items included thereunder; amending s. 395.503(3), Florida
Florida Legislature

History of Legislation
1983 Regular Session
1983 Special Sessions A, B, C
1982 Special Session H

RE: CHAPTER 83-267
HB 1116 (Passed)

prepared by:

Joint Legislative Management Committee
Legislative Information Division
Capitol Building, Room 826—488-4371
By Committee on Commerce

A bill to be entitled
An act relating to mortgages; amending s. 95.281(1)(b) and (2)(b), Florida Statutes, permitting mortgagees to record and secure obligations of more than 20 years when the original record of the obligation secured by a mortgage is not ascertainable from the record of it; amending ss. 199.052(7)(d), 201.08(1), and 201.09(3), Florida Statutes, 1982 Supplement, eliminating a requirement that certain mortgages be secured by a one-to-four family structure with respect to the law governing returns on intangible taxes and the law governing the documentary stamp tax on mortgages; amending s. 665.0731(5), Florida Statutes, deleting a provision authorizing the mortgagor or his successor to file a notice limiting optional future advances; amending s. 697.04(1), Florida Statutes, permitting mortgagors or their successors in title to limit the principal amount secured by the mortgage and thereby preclude future advances; exempting construction loan agreements therefrom; amending s. 697.05(2), Florida Statutes, providing a method for calculating the final payment on an adjustable rate balloon mortgage; requiring disclosure; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
Section 1. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of Section 95.281, Florida Statutes, are amended to read:

95.281 Limitations; instruments encumbering real property.--

(1) The lien of a mortgage or other instrument encumbering real property, herein called mortgage, except those specified in subsection (5), shall terminate after the expiration of the following periods of time:

(b) If the final maturity of an obligation secured by a mortgage is not ascertainable from the record of it, 20 years after the date of the mortgage, unless prior to such time the holder of the mortgage:

1. Re-records the mortgage and includes a copy of the obligation secured by the mortgage so that the final maturity is ascertainable; or

2. Records a copy of the obligation secured by the mortgage from which copy the final maturity is ascertainable and by affidavit identifies the mortgage by its official recording data and certifies that the obligation is the obligation described in the mortgage;

in which case the lien shall terminate 5 years after the date of maturity as extended.

Section 2. Paragraph (d) of subsection (7) of section 199.052, Florida Statutes, 1982 Supplement, is amended to read:

199.052 Returns.--

(7) (d) If the mortgage, deed of trust, or other lien subject to the tax levied by this chapter secures future advances, as provided in s. 697.04, the tax shall be paid at the time of execution on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced. Any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months and secured by a one-to-four-family-structure shall, however, be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. The
trustee under any such deed of trust or the owner of any such mortgage or other instrument evidencing such lien making any such advance shall pay the tax prescribed in this chapter in respect to the amount of the advance; and the clerk shall place a notation on the record of the mortgage, deed of trust, or other instrument evidencing such lien, or upon any supplemental instrument evidencing such advance and offered for recording, showing the amount of tax received by him. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him is guilty of a misdemeanor and upon conviction shall be fined accordingly. The mortgage, deed of trust, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

Subsection (1) of section 201.08, Florida Statutes, 1982 Supplement, is amended to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.--

(1) On promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, on each $100 of the indebtedness or obligation evidenced thereby the tax shall be 15 cents on each $100 or fraction thereof. On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, on each $100 of the indebtedness or obligation evidenced thereby the tax shall be 15 cents on each $100 or fraction thereof. On mortgages, including, but not limited to, mortgages executed without the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate. When there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recordation. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid and the proper stamps affixed to the mortgage, trust deed, or security agreement. If the mortgage, trust deed, security agreement, or other evidence of indebtedness subject to the tax levied by this section secures future advances, as provided in s. 697.04, the tax shall be paid at the time of recordation on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the aforesaid general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months and secured by a one-to-four-family structure shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.
any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

Section 4. Subsection (3) of section 201.09, Florida Statutes, 1982 Supplement, is amended to read:

201.09 Renewal of existing promissory notes and mortgages; exemption.—

(1) When any promissory note is given in renewal of any existing promissory note, which said renewal note only extends or continues the identical contractual obligations of the original promissory note and evidences part or all of the original indebtedness evidenced thereby, not including any accumulated interest thereon and without enlargement in any way of said original contract and obligation, such renewal note shall not be subject to taxation under this chapter if such renewal note has attached to it the original promissory note with canceled stamps affixed thereon showing full payment of the tax due thereon.

(3) A note given in renewal of an adjustable rate note or mortgage which has an initial interest rate adjustment interval of not less than 6 months and is secured by a one-to-four-family-structure shall be subject to taxation only to the extent of any accrued interest upon which taxes have not previously been paid, notwithstanding the provisions contained in subsection (1).

Section 5. Subsection (5) of section 665.0731, Florida Statutes, is amended to read:

665.0731 Real estate loan plans.—Real estate loans eligible for classification under the real estate loan requirement of s. 665.0711 may be written upon the following plan, or upon any other loan plan approved by the department:

(5) LIEN OF MORTGAGE.—Any mortgage that can be made by an association under the provisions of this chapter may be made to secure existing debts or obligations, to secure debts or obligations created simultaneously with the execution of the mortgage, or to secure future advances pursuant to s. 697.04. All such debts, obligations, and future advances shall, from and as of the time the mortgage is filed for record as provided by the law of this state, be secured by such mortgage equally with, and have the same priority over the rights of all persons who subsequent to the recording of such mortgage acquire any rights in or liens upon the mortgaged real estate as, the debts and obligations secured thereby at the time of the filing of the mortgage for record, except that the mortgagor or his successor-in-title is authorized to file for record, and the same shall be recorded, a notice limiting the amount of optional future advances secured by such mortgage to not less than the amount actually advanced at the time of such filing, provided a copy of such filing is also filed with the mortgagee.

Section 6. Subsection (1) of section 697.04, Florida Statutes, is amended to read:

697.04 Future advances may be secured.—

(1) Hereafter, any mortgage or other instrument given for the purpose of creating a lien on real property may, and when so expressed therein shall, secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of the lender, or otherwise, as are made within 20 years from the date thereof to the same extent as if such future advances were made on the date of the execution of such mortgage or
other instrument, although there may be no advance made at the
time of the execution of such mortgage or other instrument and
although there may be no indebtedness outstanding at the time
any advance is made. Such lien, as to third persons without
actual notice thereof, shall be valid as to all such
indebtedness and future advances from the time the mortgage or
other instrument is filed for record as provided by law. The
total amount of indebtedness that may be so secured may
decrease or increase from time to time, but the total unpaid
balance so secured at any one time shall not exceed a maximum
principal amount which must be specified in such mortgage or
other instrument, plus interest thereon, except that the
mortgagor or his successor in title is authorized to file for
record, and the same shall be recorded and effective from the
date of filing, a notice limiting the maximum principal amount
that may be so secured to an amount not less than the amount
actually advanced at the time of such filing, provided a copy
of such filing is also sent by certified mail to the
mortgagee, and provided further, in the case of an open-end or
revolving credit agreement, that the mortgagor shall surrender
to the mortgagee all credit cards, checks, or other devices
used to obtain further advances at the time of filing the
notice. Notwithstanding the foregoing, and any disbursements
made for the payment of taxes, levies, or insurance on the
property covered by the lien, and any advances or
disbursements made under a construction loan agreement
referred to in a mortgage, to enable completion of the
contemplated improvement, with interest on such advances or
disbursements, are secured by the mortgage or other instrument
even though the mortgage or other instrument does not provide
for future advances, or the advances or disbursements cause
the total indebtedness to exceed the face amount stated in the
instrument. This section shall not apply to any mortgages,
shipping contracts, or other instruments made and given by
naval stores operators and producers to secure existing loans
and future advances by naval stores factors.

Section 7. Subsection (2) of section 697.05, Florida
Statutes, is amended to read:

697.05 Balloon mortgages; scope of law; definition;
requirements as to contents; penalties for violations;
exemptions.--

(2)(a) Every mortgage in which the final payment or
the balance due and payable upon maturity is greater
than twice the amount of the regular monthly or periodic payment of
the said mortgage shall be deemed a balloon mortgage, and, except as provided in paragraph (c), shall have printed or
clearly stamped on such mortgage:

THIS IS A BALLOON MORTGAGE AND THE FINAL PAYMENT OR THE
BALANCE DUE UPON MATURITY IS . . . . . , TOGETHER WITH ACCRUED
INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE
UNDER THE TERMS OF THIS MORTGAGE.

(b) This legend including the total amount due upon
maturity shall appear at the top of the first page or face
sheet of the mortgage and also immediately above the place for
signature of the mortgagor. The legend shall be conspicuously
printed or stamped in type as large as the largest type used
in the text of the instrument, either as an overprint or by a
rubber stamp impression.

(c) In the case of any balloon mortgage securing the
payment of an obligation the rate of interest on which is
variable or is to be adjusted or renegotiated periodically,

CODING: Words in struck through type are deletions from existing law, words underlined are additions.
The balance due upon maturity shall be calculated on the assumption that the initial rate of interest will apply for the entire term of the mortgage, and the legend shall disclose that the stated balance due upon maturity is an approximate amount based on such assumption. A legend in the following form shall be sufficient to comply with the requirements of this section:

THIS IS A BALLOON MORTGAGE SECURING A VARIABLE (adjustable; renegotiable) RATE OBLIGATION. ASSUMING THAT THE INITIAL RATE OF INTEREST WERE TO APPLY FOR THE ENTIRE TERM OF THE MORTGAGE, THE FINAL PAYMENT OR THE BALANCE DUE UPON MATURITY WOULD BE APPROXIMATELY , TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS MORTGAGE. THE ACTUAL BALANCE DUE UPON MATURITY MAY VARY DEPENDING ON CHANGES IN THE RATE OF INTEREST.

Section 8. This act shall take effect upon becoming a law.

HOUSE SUMMARY

Permits mortgagees to record and secure obligations of more than 20 years when the original record of the obligation secured by a mortgage is not ascertainable from the record of it, provided that the holder of the mortgage re-records the mortgage and includes a copy of the obligation secured by it so that the final maturity date is ascertainable, or the holder records a copy of the obligation secured by the mortgage from which copy the final maturity is ascertainable and by affidavit identifies the mortgage by its official recording data and certifies that the obligation is the obligation described in the mortgage.

Eliminates language in the laws governing returns on intangible taxes and the documentary stamp tax that requires certain mortgages to be secured by a one-to-four family structure. Eliminates a provision of law authorizing the mortgagor or his successor in title to file a notice limiting optional future advances. Permits mortgagors or their successors in title to limit the principal amount secured by the mortgage, thereby precluding future advances. Provides a method for calculating the final payment on an adjustable rate balloon mortgage.
The purpose of this bill is to cure several problems associated with mortgages. First, the law is amended to give mortgagees an opportunity to re-record a mortgage or record the obligation it secures so that the final maturity of the obligation is ascertainable from the public record. It is important for the final date to be ascertainable, for if it is not, the mortgage lien expires twenty years after the date of the mortgage regardless of the maturity of the obligation.

The bill would amend provisions in the intangibles tax and documentary stamp tax acts which limit the treatment of accrued interest as a future advance for tax purposes. The present provision which is limited to residential mortgages on one-to-four family dwellings would be expanded to cover commercial mortgage loans as well.

The bill amends the law relating to future advance clauses in mortgages. It makes it possible for the borrower to preclude any future advances secured by the original mortgage so that he or she is free to take out loans from other lenders secured by a second mortgage.

Finally, the bill provides an alternate form of notice for balloon mortgages securing adjustable rate obligations. In such cases, the notice must state the amount of the balloon payment calculated on the assumption that the initial rate of interest will not be changed. It must also disclose that this is an approximate amount and that the actual amount may vary depending on changes in the rate of interest.
II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

At present, the statute of limitation governing mortgages or other instruments encumbering real property provides that the lien of a mortgage shall expire:

1. After five years if, upon recording of the mortgage, the final maturity of the secured obligation is ascertainable, or

2. After twenty years if, upon recording of the mortgage, the final maturity of the secured obligation is not ascertainable from the recording.

In 1982 the Legislature enacted a limitation on the treatment of accrued interest or "negative amortization" as a future advance for purposes of calculating the intangibles tax or the documentary stamps due on a mortgage. Under these provisions, any increase in the amount of the original indebtedness is treated as a taxable future advance only to the extent that the increase is a computable sum certain when the mortgage is executed if the initial interest rate adjustment interval is 6 months or more and if the mortgage is on a one-to-four family dwelling. The only time the negative amortization is a computable sum certain is when the initial payments are less than the accruing interest at the initial rate. Even in such cases, the increase in the amount of the indebtedness can only be computed with certainty to the time prescribed for the first rate adjustment.

The bill also deals with future advance clauses in mortgages. At the present, if a mortgage loan is made by a state-chartered savings and loan, the borrower may limit any future advances secured by the mortgage and, thus, the maximum principal amount that the mortgage secures. Borrowers from other lenders are limited to their first lender's terms, and second mortgage lenders are reluctant to make loans where the mortgaged property could become increasingly encumbered by future advances. Only the provision in s. 665.0731 dealing with S & L mortgages gives the borrower power to remove the future advance "boiler plate" language in his mortgage.

Section 697.05, Florida Statutes, relating to balloon mortgages, requires that every balloon mortgage in which the final payment is more than twice the amount of the regular periodic payments must bear a conspicuous notice stating the amount of the balance due on maturity. The penalty for failure to comply with this requirement is that upon maturity the mortgage is automatically extended, the periodic payments remain the same, and all payments are attributed to principal only until the remaining balance due has been paid. Additionally, any interest that has previously been charged is forfeited. This provision does not apply to first mortgages or mortgages of more than five years or mortgages requiring only periodic payments of interest with the entire principal amount due on maturity.

B. EFFECT OF PROPOSED CHANGES

Section one of the bill would amend the lien limitation law to accommodate those holding obligations of more than twenty years which are secured by mortgages that, when recorded, did not refer to the final maturity of the obligation. This bill will give mortgagees the opportunity to re-record the mortgage and a copy of the obligation or to record the obligation and by affidavit identify the mortgage by which the obligation was secured. The date of the final maturity of the obligation would
become ascertainable in both cases, and the mortgage lien would expire five years from the final maturity date.

The same applies to obligations that are changed by an extension agreement, as provided in s. 95.281(2).

Sections two, three and four of the bill would extend the application of provisions related to the intangibles tax and documentary stamp tax on certain adjustable rate mortgages to cover commercial as well as residential mortgages.

In section six of the bill the borrower or mortgagor is given the option of limiting the maximum principal amount secured by the mortgage to the amount actually received. With the first obligation secured and limited, the borrower is free to use his or her equity in the mortgaged real property to secure other loans through different lenders. Thus, the bill will have the effect of giving borrowers the option of removing "boiler plate" future advance clauses from their agreements.

Note that the proposed change makes a special provision for construction loan agreements. The changes allow future advances to be secured by the mortgage even though there is no explicit reference to them in the agreement. Second, the changes provide that disbursements or advances made pursuant to a construction agreement in order to complete the improvement are secured by the mortgage even though the total obligation exceeds the principal amount stated in the mortgage. The first change would bring the statute into conformance with case law and will help avoid the confusion that surrounds future advance clauses in construction loans. See Industrial Supply Corp. v. Bricker, 306 So.2d 133 (Fla. 1st DCA 1975); and Snead Construction Corp. v. First Federal Savings & Loan, 342 So.2d 517 (Fla. 1st DCA 1976).

Future advances in mortgages held by state-chartered savings and loan associations may now be limited by the mortgagor. But, as the amendment in s. 697.04(1) would apply to all mortgages, the present provision applying to only state S & Ls would become redundant. Thus it is repealed in section five of the bill.

Finally, section seven provides an alternate form of notice for balloon mortgages securing adjustable rate obligations. Where the rate of interest on the mortgage is subject to change but the periodic payments remain fixed, it is not possible to calculate the amount of the balloon payment ahead of time. The notice form provided in the bill thus requires that the balloon payment be calculated as if the interest rate were fixed, it must disclose that this is an approximate amount, and it must include a statement that the actual balance due on maturity may vary depending on changes in the rate of interest.

III. ECONOMIC IMPACT CONSIDERATIONS

A. PRIVATE SECTOR CONSIDERATIONS

This bill would have an economic effect on the private sector insofar as, first, it gives lenders who did not record the final maturity date of the obligation, the financial security of the encumbered property they would not have were there no chance to re-record the obligation.

The bill would also enable commercial borrowers to avoid paying additional taxes on future negative amortization on adjustable rate loans.

Third, this bill will give borrowers greater financial flexibility. That is, a borrower will be able to limit his or
her liability on an underlying obligation by limiting future advances. This, in turn, will allow him or her greater choice in the economic marketplace when trying to obtain additional financing.

And last, the bill would relieve the holder of an adjustable rate balloon mortgage of the serious penalty for failure to comply with the present notice requirement by providing a workable form of notice.

B. PUBLIC SECTOR CONSIDERATIONS

The only provisions of the bill that should have any public sector impact are those relating to the intangibles and documentary stamp taxes. When the present provisions were added to the law last year, the fiscal note on the bill pointed out that in most cases the tax is assessed only on the original amount of the mortgage. Unless the mortgage provides for "built in" negative amortization, it is not possible to compute future increases in the total amount of the indebtedness. The Department of Revenue has indicated that it could not state what the revenue impact of the 1982 provisions has been, nor could it estimate the impact of the extension of those provisions to commercial mortgage loans, except to suggest that it would probably be insignificant.

IV. COMMENTS

V. AMENDMENTS

Prepared by: Robin Hassler

Staff Director: Wyatt T. Martin
This bill amends mortgage-related laws in four places:

First, it allows the holder of a mortgage the chance to re-record an obligation or mortgage so that the final maturity of the obligation is ascertainable from the recording. This preserves the mortgagee's security on notes of more than 20 years.

Second, the bill amends the intangibles tax and documentary stamp tax laws on adjustable rate mortgages. Under the bill, negative amortization tax provisions would no longer be restricted to mortgages on one-to-four family dwellings.

Third, the bill gives a mortgagor the option of cutting off future advances thus limiting the amount the mortgage may secure. The savings and loan law related to future advances is deleted since it is covered in this new provision.

And finally, the bill provides a balloon mortgage notice form for those mortgages that are secured by adjustable rate obligations.
Bill Analysis

Florida House of Representatives
H. Lee Moffitt, Speaker  Steve Pajcic, Speaker pro tempore
Committee on Commerce

Samuel P. Bell, III
Chairman
Dexter W. Lehtinen
Vice Chairman

FINAL STAFF SUMMARY

HB 1106 by Commerce
(as enacted by the Legislature)
relating to mortgages

Committee Consideration:
House Commerce
House Finance and Tax

Identical*/Similar Bills:
SB 1135
See also: CS/HB 863, HB 578,
HB 777, SB 498, SB 521, SB 649

Effective Date:
Upon becoming law
(with exceptions)

I. SUMMARY AND PURPOSE

This bill affects mortgage law in several ways. First, it directs the Department of Community Affairs to conduct a study into the use of reverse annuity mortgages and provides an appropriation.

Second, the law is amended to give mortgagees an opportunity to re-record a mortgage or record the obligation it secures so that the final maturity of the obligation is ascertainable from the public record. It is important for the final date to be ascertainable, for if it is not, the mortgage lien expires twenty years after the date of the mortgage regardless of the maturity of the obligation.

Third, the bill amends provisions in the intangibles tax and documentary stamp tax acts which limit the treatment of accrued interest as a future advance for tax purposes. The former provision which was limited to residential mortgages on one-to-four family dwellings is expanded to cover commercial mortgage loans as well.

Fourth, the bill revises the penalty that companies, corporations and brokers must pay for not filing information regarding their intangible personal property taxes in a timely manner. Former law favored large entities. This bill removes that bias.

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Fifth, the bill amends the law relating to future advance clauses in mortgages. It makes it possible for the borrower to preclude any future advances secured by the original mortgage so that he or she is free to take out a loan secured by a second mortgage from another lender.

Finally, the bill provides an alternate form of notice for balloon mortgages securing adjustable rate obligations. In such cases, the notice must state the amount of the balloon payment calculated on the assumption that the initial rate of interest will not be changed. It must disclose that this is an approximate amount and that the actual amount may vary depending on changes in the rate of interest. Also, it exempts balloon mortgages of more than $500,000 from the notice requirement.

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

1. Reverse Annuity Mortgages (RAMs)

There is no provision for RAMs in the law.

2. Recording and Re-recording Of Mortgages

At present, the statute of limitation governing mortgages or other instruments encumbering real property provides that the lien of a mortgage shall expire:

   a) After five years if, upon recording of the mortgage, the final maturity of the secured obligation is ascertainable, or

   b) After twenty years if, upon recording of the mortgage, the final maturity of the secured obligation is not ascertainable from the recording.

3. One-to-four Family Tax Exemption

In 1982 the Legislature enacted a limitation on the treatment of accrued interest or "negative amortization" as a future advance for purposes of calculating the intangibles tax or the documentary stamps due on a mortgage. Under these provisions, any increase in the amount of the original indebtedness is treated as a taxable future advance only to the extent that the increase is a computable sum certain when the mortgage is executed if the initial interest rate adjustment interval is 6 months or more and if the mortgage is on a one-to-four family dwelling. The only time the negative amortization is a computable sum certain is when the initial payments are less than the accruing interest at the initial rate. Even in such cases, the increase in the amount of the indebtedness can only be computed with certainty to the time prescribed for the first rate adjustment.

4. Intangible Tax Information Reports

Business entities filing late information reports pay a penalty of $100 plus $50 for each month or portion of a month that they are late. s. 199.062(5)(a). This favors large business entities.

5. Future Advances

If a mortgage loan is made by a state-chartered savings and loan, the borrower may limit any future advances secured by the mortgage and, thus, the maximum principal amount that the mortgage secures. Borrowers from other lenders are limited to their first lender's terms, and second mortgage lenders are
reluctant to make loans where the mortgaged property could become increasingly encumbered by future advances. Only the provision in s. 665.0731 dealing with S & L mortgages gives the borrower power to remove the future advance "boiler plate" language in his mortgage.

6. Balloon Mortgages

Section 697.05, Florida Statutes, relating to balloon mortgages, requires that every balloon mortgage in which the final payment is more than twice the amount of the regular periodic payments must bear a conspicuous notice stating the amount of the balance due on maturity. The penalty for failure to comply with this requirement is that upon maturity the mortgage is automatically extended, the periodic payments remain the same, and all payments are attributed to principal only until the remaining balance due has been paid. Additionally, any interest that has previously been charged is forfeited. This provision does not apply to first mortgages or mortgages of more than five years or mortgages requiring only periodic payments of interest with the entire principal amount due on maturity.

B. EFFECT OF CHANGES

1. Reverse Annuity Mortgages (RAMs)

The Department of Community Affairs is now charged with studying reverse annuity mortgages. These mortgages particularly help elderly people who have equity in their home and need additional income. The RAM would provide such income without requiring sale of the home. The bill mandates a study of RAMs appropriates $35,000 for this purpose and requires a report by DCA to the Legislature no later than January 15, 1984.

2. Re-recording and Recording of Mortgages

The bill amends the lien limitation law to accommodate those holding obligations of more than twenty years which are secured by mortgages that, when recorded, did not refer to the final maturity of the obligation. Mortgagees are given the opportunity to re-record the mortgage and a copy of the obligation or to record the obligation and by affidavit identify the mortgage by which the obligation was secured. The date of the final maturity of the obligation would become ascertainable in both cases, and the mortgage lien would expire five years from the final maturity date.

The same applies to obligations that are changed by an extension agreement, as provided in s. 95.281(2).

3. One-to-four Family Tax Exemptions

The bill extends the application of provisions related to the intangibles tax and documentary stamp tax on certain adjustable rate mortgages to commercial as well as residential mortgages.

4. Intangible Tax Information Reports

The bill revises the penalty for late filing of information reports required under the intangibles tax law. Under the bill, delinquent reporters will pay $100 plus $50 for each month they are late or $100 plus $10 per Florida stockholder record or Florida customer record, whichever is less. The bill will apply retroactively to all those entities who had information reports due April 1, 1983. This bill removes the bias in favor of large corporations as the new provision will reduce the penalty for smaller entities.
5. Future Advances

Here, the borrower or mortgagor is given the option of limiting the maximum principal amount secured by the mortgage to the amount actually received. With the first obligation secured and limited, the borrower is free to use his or her equity in the mortgaged real property to secure other loans through different lenders. Thus, the bill has the effect of giving borrowers the option of removing "boiler plate" future advance clauses from their agreements.

Note that the proposed change makes a special provision for construction loan agreements. The changes allow future advances to be secured by the mortgage even though there is no explicit reference to them in the agreement. Also, the changes provide that disbursements or advances made pursuant to a construction agreement in order to complete the improvement are secured by the mortgage even though the total obligation exceeds the principal amount stated in the mortgage. The first change brings the statute into conformity with case law and will avoid the confusion that surrounds future advance clauses in construction loans. See Industrial Supply Corp. v. Bricker, 306 So.2d 133 (Fla. 1st DCA 1975); and Snead Construction Corp. v. First Federal Savings & Loan, 342 So.2d 517 (Fla. 1st DCA 1976).

Future advances in mortgages held by state-chartered savings and loan associations already may be limited by the mortgagor. But, as the amendment in s. 697.04(1) would apply to all mortgages, the present provision applying to only state S&L's would become redundant. Thus it is repealed.

6. Balloon Mortgages

Section 12 provides an alternate form of notice for balloon mortgages securing adjustable rate obligations. Where the rate of interest on the mortgage is subject to change but the periodic payments remain fixed, it is not possible to calculate the amount of the balloon payment ahead of time. The notice form provided in the bill thus requires that the balloon payment be calculated as if the interest rate were fixed, it must disclose that this is an approximate amount, and it must include a statement that the actual balance due on maturity may vary depending on changes in the rate of interest. Finally, the bill also exempts mortgages of more than $500,000 from the notice requirements applicable to balloon mortgages.

III. ECONOMIC IMPACT

A. PRIVATE SECTOR CONSIDERATIONS

Recording and Re-recording of Mortgages

This bill would have an economic effect on the private sector insofar as it gives lenders who did not record the final maturity date of the obligation the financial security of the encumbered property they would not have were there no chance to re-record the obligation.

One-to-Four Family Tax Exemption

The bill would also enable commercial borrowers to avoid paying additional taxes on future negative amortization on adjustable rate loans.
Intangible Tax Information Reports

The change in the information reporting penalty provision will favorably affect smaller business entities. The extent to which they will be affected is inestimable.

Future Advances

This bill will give borrowers greater financial flexibility. That is, a borrower will be able to limit his or her liability on an underlying obligation by limiting future advances. This, in turn, will allow him or her greater choice in the economic marketplace when trying to obtain additional financing.

Balloon Mortgages

And last, the bill would relieve the holder of an adjustable rate balloon mortgage of the serious penalty for failure to comply with the present notice requirement by providing a workable form of notice.

B. PUBLIC SECTOR CONSIDERATIONS

One-to-Four Family Tax Exemption

The provisions of the bill that should have a public sector impact are first, those relating to the intangibles and documentary stamp taxes. When the present provisions were added to the law last year, the fiscal note on the bill pointed out that in most cases the tax is assessed only on the original amount of the mortgage. Unless the mortgage provides for "built in" negative amortization, it is not possible to compute future increases in the total amount of the indebtedness. The Department of Revenue has indicated that it could not state what the revenue impact of the 1982 provisions has been, nor could it estimate the impact of the extension of those provisions to commercial mortgage loans, except to suggest that it would probably be insignificant.

Reverse Annuity Mortgages

Second, $35,000 will come from General Revenue to pay for the RAM study.

Intangible Tax Information Reports

Third, there is an unknown negative fiscal impact, as the Finance and Tax Committee reports, on the changes in information report late filing penalty.

IV. COMMENTS

As indicated below, during floor consideration of the bill in the House, an amendment was adopted which added a provision exempting balloon mortgages in excess of $500,000 from the notice requirements of the law. Through inadvertence or neglect, there was no title amendment adopted to reflect this change.

Because of this technical defect, the text of HB 1106 was reintroduced with a corrected title as HB 23-B during a special session of the Legislature which convened on June 15, 1983. That bill was subsequently amended by deleting the $35,000 appropriation to the Department of Community Affairs and then passed by the Legislature.
V. LEGISLATIVE HISTORY

A. ENACTED BILL

House bill 1106 began as PCB 83-26 and dealt only with mortgage re-recording and future advances. On March 29, 1983, the bill was heard in the Subcommittee on Banking and Commerce of the Commerce Committee, and several amendments were adopted. The future advance section was amended to require that, in revolving credit agreements, mortgagors must surrender all credit cards, checks and other devices used to obtain future advances when they file notice to limit those advances. Also, that section was amended to require notice to the mortgagee by certified mail.

Another amendment added to the bill the provisions removing the one-to-four family limitation from the intangibles and documentary stamp tax exemptions on adjustable rate mortgages. And, finally, the alternate form of notice for adjustable rate balloon mortgages was added to the bill.

On April 5, 1983, the bill was heard by the full Commerce Committee. It was amended again to include a provision overlooked previously regarding the one-to-four family limitation on the documentary stamp tax exemption on extended loans. It was then approved and introduced as HB 1106.

The House Committee on Finance & Taxation heard HB 1106 on May 20, 1983. The bill was reported favorably with one amendment exempting mortgages of more than $500,000 from the balloon mortgage notice requirements.

On June 1, 1983, HB 1106 was read for the second time and amended. The first amendment adopted was the Finance & Taxation Committee amendment mentioned above. A second amendment changed the future advance section to provide that negative amortization and deferred income would be secured by a mortgage, notwithstanding the filing by the mortgagor of a notice limiting future advances.

Also, SB 649, which revised penalties for failure to file intangible personal property tax information was amended onto the bill. SB 649 had passed the House Finance and Tax Committee on May 27, 1983, after winning Senate approval 36-0 on April 21 (SJ 155).

The last change to HB 1106 added the provisions of HB 777 to the bill. The latter measure dealt with a Department of Community Affairs study of reverse annuity mortgages. It was heard by the Committees on Community Affairs on April 27, 1983, and Appropriations on May 30, 1983. Both reported the measure favorably.

House bill 1106 was then passed by the House, as amended 108-3 (HJ 928).

The Senate substituted the bill for its companion, SB 1135, and passed the House measure 36-0 (SJ 756).

B. DISPOSITION OF COMPANION

The companion measure, Senate Bill 1135, was referred to the committees on Commerce, Judiciary-Civil, and Finance, Taxation and Claims. It was reported favorably by the Commerce Committee with amendments on May 17, 1983, and was later withdrawn from the other committees of reference and placed on the Calendar. On June 2, HB 1106 was substituted for SB 1135 which was then laid on the table under the Rules.
Prepared by: 
Robin Hassler

Staff Director: Wyatt T. Martin
STATE OF FLORIDA
HOUSE OF REPRESENTATIVES
Prepared 05/16/83 by the Committee on Finance and Taxation 1983
FISCAL NOTE

In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State, and of Local Governments as a whole, and selected impacts on the private sector.

I. DESCRIPTION OF BILL
A. Fund or Tax Affected
   Intangibles Tax
   Documentary Stamp Tax

B. Principal Agency Affected
   Department of Revenue

C. Sponsor’s Statement of Purpose
   To cure several problems associated with mortgages.

D. Narrative Summary
   Section 1: Allows mortgage holders to re-record mortgages and to include a copy of the obligation to show date of final maturity. Provides that the lien shall terminate 5 years after the date of maturity. (Currently there is a 20 year statute of limitations for mortgages with an unknown date of maturity.)

   Sections 2-4: Expands provisions of the intangibles tax and documentary stamp tax relating to treatment of adjustable rate mortgages so that rate adjustments resulting in negative amortization will be taxed as a future advance only to the extent the increase is ascertainable upon execution. Currently, the limitation applies only to mortgages having an initial interest rate adjustment interval of 6 months or more and secured by a one to four family structure. The bill removes the "one to four family structure" requirement so that commercial mortgages will now qualify for this treatment.

   Section 5: Deletes a provision rendered redundant.

   Section 6: Allows the mortgagor, subject to an obligation which allows future advances, to record a notice which limits the amount of optional future advances to not less than the amount actually advanced. This enables the mortgagor to obtain increased financing.

   Section 7: Provides an alternate form of notice for adjustable rate balloon mortgages which indicate that the amount stated for the balloon payment is just an estimate and that it will vary depending on interest rate variations.

II. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS
A. Non-Recurring or First Year Start-up Effects
   Indeterminate negative fiscal impact.

B. Recurring or Annualized Continuation Effects
   Indeterminate negative fiscal impact.

C. Long Run Effects other than Normal Growth
   None

D. Appropriations Consequences/Source of Funds
   None

83h1106in0  Staff Director
In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State, and of Local Governments as a whole, and selected impacts on the private sector.

III. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE
   A. Non-Recurring or First Year Start-up Effects
      Indeterminate. To the extent that the Intangibles Tax revenues are decreased, the Revenue Sharing Trust Fund will be decreased proportionately. To the extent the Documentary Stamp Tax revenues are decreased, the Water Management Lands Trust Fund will be decreased proportionately.

   B. Recurring or Annualized Continuation Effects
      Indeterminate (See above)

   C. Long Run Effects other than Normal Growth
      None

IV. DIRECT IMPACT ON THE PRIVATE SECTOR:
   A. Direct Private Costs
      None

   B. Direct Private Benefits
      Improves financial security for lenders who did not originally record the final maturity date of the obligation. Allows commercial borrowers to avoid taxes on future negative amortization on adjustable rate loans. Allows borrowers to limit liability by limiting future advances, permitting borrowers to enhance their borrowing capacity. Balloon mortgagors would receive a less misleading notice.

   C. Effects on Competition, Private Enterprise and Employment Markets
      None

V. COMMENTS:

Staff Director
STATE & LOCAL GOVERNMENT & PRIVATE SECTOR IMPACT

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      Section 7: Provides an alternate form of notice for adjustable rate balloon mortgages which indicate that the amount stated for the balloon payment is just an estimate and that it will vary depending on interest rate variations.

      Section 8: Exempts mortgages securing extensions of credit in excess of $500,000 from the balloon mortgage notice requirements of s. 697.05.
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   Indeterminate negative fiscal impact.

B. Recurring or Annualized Continuation Effects
   Indeterminate negative fiscal impact.

C. Long Run Effects other than Normal Growth
   None

D. Appropriations Consequences/Source of Funds
   None

III. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE

A. Non-Recurring or First Year Start-up Effects
   Indeterminate. To the extent that the Intangibles Tax revenues are decreased, the Revenue Sharing Trust Fund will be decreased proportionately. To the extent the Documentary Stamp Tax revenues are decreased, the Water Management Lands Trust Fund will be decreased proportionately.

B. Recurring or Annualized Continuation Effects
   Indeterminate (See above)

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   None

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   None

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C. Effects on Competition, Private Enterprise and Employment Markets
   None

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C. Effects on Competition, Private Enterprise and Employment Markets
   None

V. COMMENTS:

Staff Director
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   C. Effects on Competition, Private Enterprise and Employment Markets
      None

V. COMMENTS:

83h1106a10  Staff Director
Bill Analysis

Florida House of Representatives

H. Lee Moffitt, Speaker  Steve Pajcic, Speaker pro tempore
Committee on Commerce

Samuel P. Bell, III
Chairman
Dexter W. Lehtinen
Vice Chairman

FINAL STAFF SUMMARY

HB 1106 by Commerce
(as enacted by the Legislature)
relating to mortgages
Became Law: June 24, 1983

Committee Consideration:
House Commerce
House Finance and Tax

Effective Date: Upon becoming law
(with exceptions)

Identical*/Similar Bills:
SB 1135
See also: CS/HB 863, HB 578,
HB 777, SB 498, SB 521, SB 649

I. SUMMARY AND PURPOSE

This bill affects mortgage law in several ways. First, it directs the Department of Community Affairs to conduct a study into the use of reverse annuity mortgages and provides an appropriation.

Second, the law is amended to give mortgagees an opportunity to re-record a mortgage or record the obligation it secures so that the final maturity of the obligation is ascertainable from the public record. It is important for the final date to be ascertainable, for if it is not, the mortgage lien expires twenty years after the date of the mortgage regardless of the maturity of the obligation.

Third, the bill amends provisions in the intangibles tax and documentary stamp tax acts which limit the treatment of accrued interest as a future advance for tax purposes. The former provision which was limited to residential mortgages on one-to-four family dwellings is expanded to cover commercial mortgage loans as well.

Fourth, the bill revises the penalty that companies, corporations and brokers must pay for not filing information regarding their intangible personal property taxes in a timely manner. Former law favored large entities. This bill removes that bias.
Fifth, the bill amends the law relating to future advance clauses in mortgages. It makes it possible for the borrower to preclude any future advances secured by the original mortgage so that he or she is free to take out a loan secured by a second mortgage from another lender.

Finally, the bill provides an alternate form of notice for balloon mortgages securing adjustable rate obligations. In such cases, the notice must state the amount of the balloon payment calculated on the assumption that the initial rate of interest will not be changed. It must disclose that this is an approximate amount and that the actual amount may vary depending on changes in the rate of interest. Also, it exempts balloon mortgages of more than $500,000 from the notice requirement.

II. CURRENT LAW AND EFFECT OF CHANGES

A. CURRENT LAW

1. Reverse Annuity Mortgages (RAMs)

There is no provision for RAMs in the law.

2. Recording and Re-recording of Mortgages

At present, the statute of limitation governing mortgages or other instruments encumbering real property provides that the lien of a mortgage shall expire:

a) After five years if, upon recording of the mortgage, the final maturity of the secured obligation is ascertainable, or

b) After twenty years if, upon recording of the mortgage, the final maturity of the secured obligation is not ascertainable from the recording.

3. One-to-four Family Tax Exemption

In 1982 the Legislature enacted a limitation on the treatment of accrued interest or "negative amortization" as a future advance for purposes of calculating the intangibles tax or the documentary stamps due on a mortgage. Under these provisions, any increase in the amount of the original indebtedness is treated as a taxable future advance only to the extent that the increase is a computable sum certain when the mortgage is executed if the initial interest rate adjustment interval is 6 months or more and if the mortgage is on a one-to-four family dwelling. The only time the negative amortization is a computable sum certain is when the initial payments are less than the accruing interest at the initial rate. Even in such cases, the increase in the amount of the indebtedness can only be computed with certainty to the time prescribed for the first rate adjustment.

4. Intangible Tax Information Reports

Business entities filing late information reports pay a penalty of $100 plus $50 for each month or portion of a month that they are late. s. 199.062(5)(a). This favors large business entities.

5. Future Advances

If a mortgage loan is made by a state-chartered savings and loan, the borrower may limit any future advances secured by the mortgage and, thus, the maximum principal amount that the mortgage secures. Borrowers from other lenders are limited to their first lender's terms, and second mortgage lenders are
reluctant to make loans where the mortgaged property could become increasingly encumbered by future advances. Only the provision in s. 665.0731 dealing with S & L mortgages gives the borrower power to remove the future advance "boiler plate" language in his mortgage.

6. Balloon Mortgages

Section 697.05, Florida Statutes, relating to balloon mortgages, requires that every balloon mortgage in which the final payment is more than twice the amount of the regular periodic payments must bear a conspicuous notice stating the amount of the balance due on maturity. The penalty for failure to comply with this requirement is that upon maturity the mortgage is automatically extended, the periodic payments remain the same, and all payments are attributed to principal only until the remaining balance due has been paid. Additionally, any interest that has previously been charged is forfeited. This provision does not apply to first mortgages or mortgages of more than five years or mortgages requiring only periodic payments of interest with the entire principal amount due on maturity.

B. EFFECT OF CHANGES

1. Reverse Annuity Mortgages (RAMs)

The Department of Community Affairs is now charged with studying reverse annuity mortgages. These mortgages particularly help elderly people who have equity in their home and need additional income. The RAM would provide such income without requiring sale of the home. The bill mandates a study of RAMs appropriates $35,000 for this purpose and requires a report by DCA to the Legislature no later than January 15, 1984.

2. Re-recording and Recording of Mortgages

The bill amends the lien limitation law to accommodate those holding obligations of more than twenty years which are secured by mortgages that, when recorded, did not refer to the final maturity of the obligation. Mortgagees are given the opportunity to re-record the mortgage and a copy of the obligation or to record the obligation and by affidavit identify the mortgage by which the obligation was secured. The date of the final maturity of the obligation would become ascertainable in both cases, and the mortgage lien would expire five years from the final maturity date.

The same applies to obligations that are changed by an extension agreement, as provided in s. 95.281(2).

3. One-to-four Family Tax Exemptions

The bill extends the application of provisions related to the intangibles tax and documentary stamp tax on certain adjustable rate mortgages to commercial as well as residential mortgages.

4. Intangible Tax Information Reports

The bill revises the penalty for late filing of information reports required under the intangibles tax law. Under the bill, delinquent reporters will pay $100 plus $50 for each month they are late or $100 plus $10 per Florida stockholder record or Florida customer record, whichever is less. The bill will apply retroactively to all those entities who had information reports due April 1, 1983. This bill removes the bias in favor of large corporations as the new provision will reduce the penalty for smaller entities.
5. Future Advances

Here, the borrower or mortgagor is given the option of limiting the maximum principal amount secured by the mortgage to the amount actually received. With the first obligation secured and limited, the borrower is free to use his or her equity in the mortgaged real property to secure other loans through different lenders. Thus, the bill has the effect of giving borrowers the option of removing "boiler plate" future advance clauses from their agreements.

Note that the proposed change makes a special provision for construction loan agreements. The changes allow future advances to be secured by the mortgage even though there is no explicit reference to them in the agreement. Also, the changes provide that disbursements or advances made pursuant to a construction agreement in order to complete the improvement are secured by the mortgage even though the total obligation exceeds the principal amount stated in the mortgage. The first change brings the statute into conformity with case law and will avoid the confusion that surrounds future advance clauses in construction loans. See Industrial Supply Corp. v. Bricker, 306 So.2d 133 (Fla. 1st DCA 1975); and Snead Construction Corp. v. First Federal Savings & Loan, 342 So.2d 517 (Fla. 1st DCA 1976).

Future advances in mortgages held by state-chartered savings and loan associations already may be limited by the mortgagor. But, as the amendment in s. 697.04(1) would apply to all mortgages, the present provision applying to only state S&L's would become redundant. Thus it is repealed.

6. Balloon Mortgages

Section 12 provides an alternate form of notice for balloon mortgages securing adjustable rate obligations. Where the rate of interest on the mortgage is subject to change but the periodic payments remain fixed, it is not possible to calculate the amount of the balloon payment ahead of time. The notice form provided in the bill thus requires that the balloon payment be calculated as if the interest rate were fixed, it must disclose that this is an approximate amount, and it must include a statement that the actual balance due on maturity may vary depending on changes in the rate of interest. Finally, the bill also exempts mortgages of more than $500,000 from the notice requirements applicable to balloon mortgages.

III. ECONOMIC IMPACT

A. PRIVATE SECTOR CONSIDERATIONS

Recording and Re-recording of Mortgages

This bill would have an economic effect on the private sector insofar as it gives lenders who did not record the final maturity date of the obligation the financial security of the encumbered property they would not have were there no chance to re-record the obligation.

One-to-Four Family Tax Exemption

The bill would also enable commercial borrowers to avoid paying additional taxes on future negative amortization on adjustable rate loans.
Intangible Tax Information Reports

The change in the information reporting penalty provision will favorably affect smaller business entities. The extent to which they will be affected is inestimable.

Future Advances

This bill will give borrowers greater financial flexibility. That is, a borrower will be able to limit his or her liability on an underlying obligation by limiting future advances. This, in turn, will allow him or her greater choice in the economic marketplace when trying to obtain additional financing.

Balloons Mortgages

And last, the bill would relieve the holder of an adjustable rate balloon mortgage of the serious penalty for failure to comply with the present notice requirement by providing a workable form of notice.

B. PUBLIC SECTOR CONSIDERATIONS

One-to-Four Family Tax Exemption

The provisions of the bill that should have a public sector impact are first, those relating to the intangibles and documentary stamp taxes. When the present provisions were added to the law last year, the fiscal note on the bill pointed out that in most cases the tax is assessed only on the original amount of the mortgage. Unless the mortgage provides for “built in” negative amortization, it is not possible to compute future increases in the total amount of the indebtedness. The Department of Revenue has indicated that it could not state what the revenue impact of the 1982 provisions has been, nor could it estimate the impact of the extension of those provisions to commercial mortgage loans, except to suggest that it would probably be insignificant.

Reverse Annuity Mortgages

Second, $35,000 will come from General Revenue to pay for the RAM study.

Intangible Tax Information Reports

Third, there is an unknown negative fiscal impact, as the Finance and Tax Committee reports, on the changes in information report late filing penalty.

IV. COMMENTS

As indicated below, during floor consideration of the bill in the House, an amendment was adopted which added a provision exempting balloon mortgages in excess of $500,000 from the notice requirements of the law. Through inadvertence or neglect, there was no title amendment adopted to reflect this change.

Because of this technical defect, the text of HB 1106 was reintroduced with a corrected title as HB 23-B during a special session of the Legislature which convened on June 15, 1983. That bill was subsequently amended by deleting the $35,000 appropriation to the Department of Community Affairs and then passed by the Legislature.
V. LEGISLATIVE HISTORY

A. ENACTED BILL

House bill 1106 began as PCB 83-26 and dealt only with mortgage re-recording and future advances. On March 29, 1983, the bill was heard in the Subcommittee on Banking and Commerce of the Commerce Committee, and several amendments were adopted. The future advance section was amended to require that, in revolving credit agreements, mortgagors must surrender all credit cards, checks and other devices used to obtain future advances when they file notice to limit those advances. Also, that section was amended to require notice to the mortgagee by certified mail.

Another amendment added to the bill the provisions removing the one-to-four family limitation from the intangibles and documentary stamp tax exemptions on adjustable rate mortgages. And, finally, the alternate form of notice for adjustable rate balloon mortgages was added to the bill.

On April 5, 1983, the bill was heard by the full Commerce Committee. It was amended again to include a provision overlooked previously regarding the one-to-four family limitation on the documentary stamp tax exemption on extended loans. It was then approved and introduced as HB 1106.

The House Committee on Finance & Taxation heard HB 1106 on May 20, 1983. The bill was reported favorably with one amendment exempting mortgages of more than $500,000 from the balloon mortgage notice requirements.

On June 1, 1983, HB 1106 was read for the second time and amended. The first amendment adopted was the Finance & Taxation Committee amendment mentioned above. A second amendment changed the future advance section to provide that negative amortization and deferred income would be secured by a mortgage, notwithstanding the filing by the mortgagor of a notice limiting future advances.

Also, SB 649, which revised penalties for failure to file intangible personal property tax information was amended onto the bill. SB 649 had passed the House Finance and Tax Committee on May 27, 1983, after winning Senate approval 36-0 on April 21 (SJ 155).

The last change to HB 1106 added the provisions of HB 777 to the bill. The latter measure dealt with a Department of Community Affairs study of reverse annuity mortgages. It was heard by the Committees on Community Affairs on April 27, 1983, and Appropriations on May 30, 1983. Both reported the measure favorably.

House bill 1106 was then passed by the House, as amended 108-3 (HJ 928).

The Senate substituted the bill for its companion, SB 1135, and passed the House measure 36-0 (SJ 756).

B. DISPOSITION OF COMPANION

The companion measure, Senate Bill 1135, was referred to the committees on Commerce, Judiciary-Civil, and Finance, Taxation and Claims. It was reported favorably by the Commerce Committee with amendments on May 17, 1983, and was later withdrawn from the other committees of reference and placed on the Calendar. On June 2, HB 1106 was substituted for SB 1135 which was then laid on the table under the Rules.