

## Session 115 - (2003-2004)

### S 0017 General Bill, By Thomas, Hayes, Ravenel and Short

*Similar (S 0438, H 3125, H 3616)*

**Summary:** High Cost and Consumer Home Loans Act

Predatory Lending Bill

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 23 TO TITLE 37, RELATING TO CONSUMER PROTECTION SO AS TO ENACT THE SOUTH CAROLINA HIGH-COST AND CONSUMER HOME LOANS ACT; TO DEFINE THE SUBJECT LOANS; TO PROHIBIT PROVISIONS IN A HIGH-COST HOME LOAN AGREEMENT FOR ACCELERATION, BALLOON PAYMENT, NEGATIVE AMORTIZATION, INTEREST INCREASE, ADVANCE PAYMENTS FROM LOAN PROCEEDS, AND ADDITIONAL FEES IN CERTAIN CIRCUMSTANCES; TO REQUIRE A HIGH-COST HOME LOAN LENDER TO ENSURE THAT THE BORROWER RECEIVES LOAN COUNSELING AND IS REASONABLY ABLE TO MEET HIS LOAN OBLIGATIONS; TO PROHIBIT THE FINANCING OF CERTAIN FEES IN CONNECTION WITH MAKING A HIGH-COST HOME LOAN AND THE CHARGING OF POINTS AND FEES IN CONNECTION WITH THE REFINANCING OF AN EXISTING HIGH-COST HOME LOAN; TO REGULATE THE PAYMENT OF A HOME IMPROVEMENT CONTRACTOR FROM THE PROCEEDS OF A HIGH-COST HOME LOAN; TO PROVIDE THAT A VIOLATION OF THE HIGH-COST HOME LOAN PROHIBITIONS OR RESTRICTIONS RENDERS THE LOAN UNENFORCEABLE; TO PROVIDE FOR ENFORCEMENT BY THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS, ATTORNEY GENERAL, COMMISSIONER OF BANKING, OR A PARTY TO THE LOAN; TO PROVIDE THAT THE REMEDIES AND PENALTIES FOR VIOLATIONS OF THE HIGH-COST HOME LOAN RESTRICTIONS AND PROHIBITIONS ARE CUMULATIVE; TO PROVIDE FOR ESTABLISHMENT OF GOOD FAITH BY A HIGH-COST HOME LOAN LENDER; TO PROVIDE CERTAIN RESTRICTIONS AND PROHIBITIONS IN THE MAKING OF A CONSUMER HOME LOAN, INCLUDING RESTRICTIONS ON THE CHARGING OF POINTS AND FEES AND THE PROHIBITION OF "FLIPPING" A LOAN, FINANCING CERTAIN INSURANCE PREMIUMS, AND ENCOURAGING DEFAULT OF A PREVIOUS LOAN; TO PROVIDE THAT A VIOLATION OF THE CONSUMER HOME LOAN RESTRICTIONS OR PROHIBITIONS RENDERS THE LOAN UNENFORCEABLE; TO PROVIDE FOR ENFORCEMENT BY THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS, ATTORNEY GENERAL, COMMISSIONER OF BANKING, OR A PARTY TO THE CONSUMER HOME LOAN; TO PROVIDE FOR PENALTIES AND REMEDIES, INCLUDING ATTORNEY'S FEES, AND TO MAKE THEM CUMULATIVE OF AND IN ADDITION TO OTHER REMEDIES AND PENALTIES PROVIDED AT LAW; TO PROVIDE FOR REPAYMENT WITHOUT PENALTY OF CERTAIN LOANS; TO AMEND SECTION 37-10-103, RELATING TO PREPAYMENT WITHOUT PENALTY OF CERTAIN LOANS, SO AS TO INCREASE THE LOAN LIMIT FROM ONE HUNDRED THOUSAND DOLLARS TO ONE HUNDRED FIFTY THOUSAND DOLLARS; TO AMEND SECTION 37-1-109, RELATING TO THE CHANGE OF DOLLAR AMOUNTS IN THE CONSUMER PROTECTION CODE, SO AS TO ADD THAT LIMIT OF ONE HUNDRED FIFTY THOUSAND DOLLARS AS AN AMOUNT SUBJECT TO CHANGE ACCORDING TO CERTAIN INDICES; BY ADDING SECTIONS 37-2-309 AND 37-3-308 SO AS TO REQUIRE CERTAIN DISCLOSURES IN CONNECTION WITH THE CREDIT SALE OF A PURCHASER-OCCUPIED MANUFACTURED HOME OR A LOAN FOR THE PURCHASE, REFINANCING, OR CONSOLIDATION OF A LOAN SECURED BY A BORROWER-OCCUPIED MANUFACTURED HOME; TO AMEND SECTION 37-5-203, RELATING TO CIVIL PENALTIES FOR VIOLATION OF DISCLOSURE PROVISIONS, SO AS TO REFERENCE THE DISCLOSURES REQUIRED IN CONNECTION WITH A CREDIT SALE OF OR LOAN SECURED BY A MANUFACTURED HOME AND TO INCREASE THE PENALTY AMOUNT; TO AMEND SECTION 37-5-108, AS AMENDED, RELATING TO UNCONSCIONABILITY IN CONSUMER CREDIT TRANSACTIONS, SO AS TO PROVIDE THAT IF, CONSIDERING CERTAIN FACTORS, THE CONSUMER IS UNABLE TO MAKE SCHEDULED PAYMENTS ON THE OBLIGATION WHEN DUE OR IS PERMITTED TO ENTER INTO A TRANSACTION FROM WHICH HE DERIVES NO SUBSTANTIAL BENEFIT, THE COURT MAY FIND THE TRANSACTION UNCONSCIONABLE; AND TO AMEND SECTION 37-3-201, AS AMENDED, RELATING TO LOAN FINANCE CHARGES ON CONSUMER LOANS, SO AS TO PROVIDE THAT CERTAIN FINANCE CHARGE LIMITS APPLY TO A LOAN BY A SUPERVISED LENDER WITH SCHEDULED LOAN PAYMENTS OF FEWER THAN ONE HUNDRED TWENTY DAYS AND TO PROVIDE FOR AN ABSOLUTE LIMIT OF THIRTY-SIX PERCENT ON THE PAYOFF BALANCE AT MATURITY.

12/04/02 Senate **Prefiled**

12/04/02 Senate **Referred to Committee on Banking and Insurance**

01/14/03 Senate **Introduced and read first time SJ-27**

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