

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3098/P1dn  
ARG:bjk:pg

October 8, 2007

ATTN: Michael Tierney

Please review the attached draft carefully to ensure that it is consistent with your intent.

For certain definitions, including the definition of "lender," I have looked for guidance to Regulation X, 24 CFR 3500.2, promulgated under the federal Real Estate Settlement Procedures Act and to s. 708.10, stats.

As discussed, this draft does not attempt to carve out federally-chartered financial institutions from its scope. If enacted, this bill might draw a court challenge on the basis of federal law preemption under the National Bank Act (national banks) or the Home Owners' Loan Act (federal savings associations). If such a court challenge were successful, the provisions of the bill would still be enforceable against lenders for which federal preemption does not apply.

I recommend conferring with DFI to assess whether the format of this draft fits well with the loan process and whether there may be any significant enforcement issues related to the draft.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.wisconsin.gov](mailto:aaron.gary@legis.wisconsin.gov)