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SENATE BILL 369

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

NANCY E. RODRIGUEZ

AN ACT

PROHIBITING RESTRICTION OF PARTIAL PREPAYMENT OF CERTAIN LOANS
SECURED BY A FIRST MORTGAGE OR LIEN ON RESIDENTIAL REAL
ESTATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. RESTRICTION OF PARTIAL PREPAYMENT OF LOANS
SECURED BY A FIRST MORTGAGE ON RESIDENTIAL REAL ESTATE. --

A. A provision restricting partial prepayment of a
debt in amount or frequency included in an instrument
evidencing the debt executed by a borrower in favor of a
lender is not enforceable if it is secured by a security
agreement creating a first lien on residential real estate
located in this state. Disclosure of this provision shall be
made to a prospective borrower and notice of its content shall
be printed in the instrument evidencing the debt in a manner

Underscored material = new
[bracketed material] = delete

1 reasonably calculated to call attention of the borrower to the
2 notice.

3 B. A lender that enforces or attempts to enforce a
4 provision described in Subsection A of this section shall
5 forfeit one regular installment payment payable under the
6 instrument of indebtedness for each occurrence of enforcement
7 or attempt. A borrower may bring an action in court to
8 enforce the provisions of this section and if he prevails in
9 the action, he shall be awarded his costs and reasonable
10 attorney fees.

11 C. As used in this section, "residential real
12 estate" means real property consisting of not more than four
13 dwelling units.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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6 February 6, 1998

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8 Mr. President:

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10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 369

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14 has had it under consideration and finds same to be NOT GERMANE.

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17 Respectfully submitted,

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22 _____
23 Manny M. Aragon, Chairman
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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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