

COMMITTEE ON BANKING AND INSURANCE

SENATE AMENDMENTS TO S.B. 1451

(Reference to printed bill)

1 Page 1, line 17, strike "NOTE, MORTGAGE,"

2 Between lines 18 and 19, insert:

3 "2. 'ARIZONA HOME INSURANCE FUND' MEANS THE MONIES MANAGED BY THE  
4 PROGRAM ADMINISTRATOR UNDER THE SUPERVISION OF THE AUTHORITY THAT SHALL BE  
5 USED SOLELY TO PAY INTEREST AND PRINCIPAL ON BONDS AND HOME CERTIFICATES."

6 Renumber to conform

7 Lines 27 and 28, strike "UNDER THE LAWS OF THIS STATE"

8 Line 36, after "SUBDIVISION" insert a comma; before the second "HOME" insert a  
9 quotation mark

10 Line 37, after "CERTIFICATE" insert a quotation mark; after "AN" insert  
11 "INSURED"

12 Line 44, insert quotation marks before "LOSS" and after "CERTIFICATE"

13 Page 2, strike lines 16 through 20, insert:

14 "(c) IS LICENSED TO PRACTICE LAW, IS LICENSED AS A CERTIFIED PUBLIC  
15 ACCOUNTANT, HAS DEMONSTRATED DOMAIN EXPERTISE AND HAS EXPERIENCE IN THE FIELD  
16 OF CAPTIVE INSURANCE."

17 Line 37, after the first "THE" insert "INITIAL PRINCIPAL"; strike "NEWLY"

18 Line 40, after "WITH" insert "THE"

19 Line 41, strike "IN THE RELEVANT FIELD" insert "INVOLVING MARKET-BASED, NONBANK  
20 SOURCED FINANCING, USING INSURANCE AS A COMPONENT AND DESIGNED TO PROVIDE  
21 MONTHLY PAYMENT REDUCTION TO HOMEOWNERS WHOSE MORTGAGE DEBT IS GREATER THAN  
22 THE VALUE OF THE PROPERTY"

23 Page 3, line 1, after "DEMONSTRATED" strike remainder of line

24 Line 2, after "LENDING" insert "PROGRAM REGULATORY"

25 Line 3, after "DEMONSTRATED" strike remainder of line

26 Line 4, after "LENDING" insert "PROGRAM"

27 Line 5, strike "RELEVANT"

28 Line 6, strike "REGULATED PERSON" insert "NONBANK FEDERALLY LICENSED BUSINESS  
29 LENDER"

30 Line 17, strike "OWNED" insert "OWED"

31 Strike lines 36, 37 and 38

32 Renumber to conform

- 1 Page 4, line 5, strike "ENTITY" insert "QUALIFIED PERSON"  
2 Strike lines 9, 10 and 11  
3 Renumber to conform  
4 Line 18, strike the comma  
5 Line 19, after "HAS" insert "TWO"  
6 Line 20, strike "AND" insert "OR"  
7 Between lines 23 and 24, insert:  
8 "(d) IS CONTROLLED BY COMPETENT PERSONS ON A DAY-TO-DAY AND STRATEGIC  
9 BASIS, TAKING INTO ACCOUNT NEGATIVE CONTROL RIGHTS OF EQUITY HOLDERS OR  
10 MEMBERS OF THE GOVERNING BODY.  
11 (e) AT LEAST THIRTY PER CENT OF ALL OF ITS DIRECT AND INDIRECT  
12 INTERESTS, INCLUDING COMMON AND PREFERRED AND TAKING INTO ACCOUNT ANY  
13 PREFERENCES OR OTHER ECONOMIC INTERESTS, IS HELD BY A DEMONSTRATED EXPERT.  
14 (f) AT LEAST SEVENTY PER CENT OF ALL OF ITS DIRECT AND INDIRECT EQUITY  
15 INTERESTS, INCLUDING COMMON AND PREFERRED AND TAKING INTO ACCOUNT ANY  
16 PREFERENCES OR OTHER ECONOMIC INTERESTS, IS HELD BY COMPETENT PERSONS.  
17 (g) ANY INDEBTEDNESS OR OTHER DEBT INSTRUMENTS, INCLUDING CONVERTIBLE  
18 DEBT, ARE HELD ONLY BY AUTHORIZED DEBT HOLDERS, WHETHER DIRECTLY OR  
19 INDIRECTLY."  
20 Line 27, after "SECURED" insert "BY"  
21 Line 29, after "THE" strike remainder of line  
22 Strike lines 30, 31 and 32  
23 Line 33, strike "CLEARANCE" insert "PRICE PAID FOR THE RESIDENTIAL REAL  
24 PROPERTY"  
25 Line 36, strike "SECURE HOME" insert "ARIZONA HOUSING FINANCE REFORM"  
26 Page 5, line 22, after the first comma insert "A"  
27 Line 26, after "PURPOSES" insert "AS DIRECTED BY THE PROGRAM ADMINISTRATOR"  
28 Page 6, between lines 16 and 17, insert:  
29 "14. ENGAGE A PROGRAM ADMINISTRATOR."  
30 Page 7, line 6, strike "mortgage credit"  
31 Line 27, after "BONDS" insert "AND HOME CERTIFICATES"  
32 Line 29, after "FUND" insert "ESTABLISHED BY SECTION 41-5114"  
33 Page 8, lines 14, 15, 17, 18, 19, 21 and 22, after "BONDS" insert "AND  
34 CERTIFICATES"  
35 Line 28, strike the first "PROGRAM" insert "ARIZONA HOME"  
36 Line 31, strike "PROGRAM" insert "ARIZONA HOME"  
37 Line 33, after the semicolon insert "residential real property;"  
38 Line 37, strike "SUBJECT TO SUPERVISION BY THE STATE TREASURER"  
39 Line 42, strike the third comma insert "AND"  
40 Line 45, after "THE" insert "RESIDENTIAL"

- 1 Page 9, line 5, after "BY" insert "RESIDENTIAL"; after the second "THE" insert  
2 "RESIDENTIAL"
- 3 Line 8, after the period insert "BEGINNING ON \_\_\_\_\_,"
- 4 Line 9, after "JUDICIAL" insert "RESIDENTIAL"
- 5 Line 10, after "BY" insert "RESIDENTIAL"
- 6 Line 15, after "OF" insert "RESIDENTIAL"
- 7 Line 16, after "BY" insert "RESIDENTIAL"
- 8 Line 18, after "PAID" insert "IN ACCORDANCE WITH RULES ADOPTED BY THE PROGRAM  
9 ADMINISTRATOR"
- 10 Line 31, strike "THE STATE TREASURER AND A FEE OF FIFTEEN DOLLARS TO"
- 11 Line 32, after "LOCATED" insert "AND A FEE OF FIFTEEN DOLLARS PER FILING TO THE  
12 STATE AGENCY THAT IS DESIGNATED TO ADMINISTER THE AUTHORITY. THAT STATE  
13 AGENCY SHALL BE AN AGENCY WITH EXISTING BONDING AUTHORITY, AND THE POWERS AND  
14 DUTIES PRESCRIBED IN THIS CHAPTER SHALL BE DEEMED NOT TO AFFECT THAT AGENCY'S  
15 EXISTING BONDING CAPACITY"
- 16 Line 35, strike the comma insert a period; after "LIENS" insert "ON RESIDENTIAL  
17 REAL PROPERTY"
- 18 Line 36, after "REGISTRY" insert "ALONG WITH A COPY OF THE PROMISSORY NOTE"
- 19 Between lines 40 and 41, insert:  
20 "G. THIS SECTION APPLIES ONLY TO NOTES AND OTHER OBLIGATIONS SECURED  
21 BY RESIDENTIAL REAL PROPERTY IN THIS STATE."
- 22 Page 10, line 26, before "BONDS" insert "A."
- 23 Between lines 31 and 32, insert:  
24 "B. ANY SECURITIES ISSUED BY THE AUTHORITY UNDER THIS ARTICLE ARE  
25 EXEMPT FROM REGISTRATION AS PRESCRIBED IN SECTION 44-1843."
- 26 Line 36, after "FUND" insert "ESTABLISHED BY SECTION 41-5114"
- 27 Line 39, strike "THE" insert "THIS"
- 28 Line 45, strike "PROGRAM" insert "ARIZONA HOME"
- 29 Page 11, line 1, strike "THE" insert "THIS"
- 30 Line 33, after "BONDS" strike the comma insert "OR"; after "CERTIFICATES" strike  
31 remainder of line
- 32 Page 12, line 21, after the period insert "IF THERE ARE ANY PARTIAL IN THE MONEY  
33 LOANS OR NOT IN THE MONEY LOANS SECURED BY THE PROGRAM PARTICIPANT'S PROPERTY  
34 OR, ALTERNATIVELY, IF THERE ARE NO PARTIAL IN THE MONEY LOANS AND NO NOT IN  
35 THE MONEY LOANS SECURED BY THE PROGRAM PARTICIPANT'S PROPERTY, THE AUTHORITY  
36 MAY PURCHASE THE PROPERTY FOR THE SUM OF THE PRINCIPAL AMOUNTS OF ALL FULLY  
37 IN THE MONEY LOANS SECURED BY THE PROGRAM PARTICIPANT'S PROPERTY."
- 38 Line 26, after "BY" insert "THE"
- 39 Line 45, after "DOLLARS" insert "FOR USE BY THE PROGRAM ADMINISTRATOR FOR  
40 PAYMENT OF APPRAISAL FEES OF HOMEOWNER-BORROWERS"

1 Page 13, strike lines 1 through 8, insert:

2 "3. THE AMOUNT OF ANY CASH PAYMENTS MADE UNDER SECTION 41-5117.

3 4. AN AMOUNT THAT EQUALS TEN PER CENT OF THE PRINCIPAL AMOUNT OF THE  
4 TIME-OUT MORTGAGE LOAN THAT IS COMPUTED BY CALCULATING THE SUM OF THE AMOUNTS  
5 IN PARAGRAPHS 1, 2 AND 3 OF THIS SUBSECTION AND MULTIPLYING THAT SUM BY  
6 ELEVEN AND ONE-NINTH PER CENT.

7 B. THE AUTHORITY SHALL RECEIVE A TIME-OUT MORTGAGE LOAN IN THE AMOUNT  
8 OF THE PRICE DETERMINED PURSUANT TO SUBSECTION A OF THIS SECTION THAT IS  
9 SECURED BY THE SAME RESIDENTIAL REAL PROPERTY WITH THE TERM AND INTEREST RATE  
10 AS DETERMINED BY THE PROGRAM ADMINISTRATOR UNDER RULES ADOPTED BY THE  
11 AUTHORITY."

12 Reletter to conform

13 Line 11, after "THAT" insert "THE"

14 Line 12, after "4" insert "OF THIS SECTION"

15 Line 13, after "FUND" insert "ESTABLISHED BY SECTION 41-5114"

16 Line 14, after "ADMINISTRATOR" insert ", AND THE BORROWER SHALL MAKE ALL  
17 PAYMENTS ON THE TIME-OUT MORTGAGE LOAN AND THE LOSS RECAPTURE CERTIFICATE TO  
18 THE PROGRAM ADMINISTRATOR"

19 Line 29, in two places after "BY" insert "THE"

20 Line 30, after "ANNUAL" insert "ARIZONA"

21 Line 31, strike the second "INSURANCE"; after "POINTS" insert "PAID TO THE  
22 PROGRAM ADMINISTRATOR"

23 Line 37, after the period insert "THE TIME-OUT MORTGAGE LOAN STANDARD FORM SHALL  
24 INCLUDE A PROVISION THAT REQUIRES THE HOMEOWNER-BORROWER TO REPAY THE  
25 TIME-OUT MORTGAGE LOAN OR REFINANCE THE TIME-OUT MORTGAGE LOAN WITH ANOTHER  
26 LENDER WITHIN EIGHTEEN MONTHS AFTER THE AVERAGE HOME VALUE IN THE STATE IS  
27 ONE HUNDRED THIRTY-FIVE PER CENT OF THE AVERAGE HOME VALUE IN THE STATE ON  
28 JANUARY 1, 2013 SO LONG AS THE THIRTY-YEAR UNITED STATES TREASURY BOND  
29 INTEREST RATE IS NOT MORE THAN FIVE PER CENT DURING THE TWELVE-MONTH PERIOD  
30 THAT BEGINS WITH THE MONTH DURING WHICH THE REQUIRED INCREASE IN AVERAGE HOME  
31 VALUE IS MET. THE PROGRAM ADMINISTRATOR SHALL DETERMINE THE AVERAGE HOME  
32 VALUE FOR JANUARY 1, 2013 AND SHALL PROVIDE THIS INFORMATION ON OR BEFORE  
33 APRIL 1, 2013."

34 Page 14, line 39, after "ADMINISTRATOR" strike remainder of line

35 Strike lines 40 through 45 insert a period

36 After line 45, insert:

37 "K. ALL PAYMENTS TO BE MADE TO THE PROGRAM ADMINISTRATOR SHALL BE MADE  
38 IN ACCORDANCE WITH APPLICABLE RULES ADOPTED BY THE PROGRAM ADMINISTRATOR.

1 L. ALL PERSONS OR ENTITIES THAT ARE REQUIRED TO REPORT TO THE  
2 AUTHORITY IN ACCORDANCE WITH RULES ADOPTED BY THE PROGRAM ADMINISTRATOR SHALL  
3 REPORT IN THE SUBSTANCE AND IN THE MANNER PRESCRIBED BY THOSE RULES.

4 M. ALL HOMEOWNER'S INSURANCE REQUIRED IN ACCORDANCE WITH THE TERMS OF  
5 A TIME-OUT MORTGAGE LOAN SHALL MEET THE MINIMUM STANDARDS AND COVERAGE AMOUNT  
6 REQUIREMENTS ADOPTED BY THE PROGRAM ADMINISTRATOR UNTIL THE AUTHORITY HAS  
7 RELEASED ITS LIEN. ALL SUCH HOMEOWNER'S INSURANCE SHALL NAME THE AUTHORITY  
8 AS LOSS PAYEE AND MORTGAGEE, IN ACCORDANCE WITH THE AUTHORITY'S LIEN  
9 POSITION."

10 Page 15, line 5, after "SERVICER" insert "FOR FURTHER PAYMENT TO THE OWNER"

11 Line 20, strike "TITLE CLEARANCE"

12 Line 21, after "LOANS" insert "UNDER SUBSECTION J OF THIS SECTION"

13 Line 25, strike "SIXTY-SEVEN PER CENT" insert "TWO-THIRDS"

14 Strike lines 29 through 41, insert "TO THE PROGRAM ADMINISTRATOR EQUAL TO ONE  
15 ONE-HUNDRED-TWENTIETH OF THE PRINCIPAL AMOUNT OF THE LOSS RECAPTURE  
16 CERTIFICATE FOR ONE HUNDRED TWENTY MONTHS. THE PROGRAM ADMINISTRATOR SHALL  
17 DETERMINE THE AMOUNT OF THE REQUIRED MONTHLY LOSS RECAPTURE CERTIFICATE  
18 PRINCIPAL PAYMENT AND SHALL COMMUNICATE THAT AMOUNT TO THE  
19 HOMEOWNER-BORROWER. IF A HOMEOWNER-BORROWER MAKES A NONSCHEDULED MONTHLY  
20 PAYMENT AND IF THE REQUIRED TIME-OUT MORTGAGE LOAN MONTHLY INTEREST PAYMENT  
21 IS LESS THAN TWO-THIRDS OF THE SUM OF THE REQUIRED MONTHLY PAYMENTS ON ALL  
22 EXISTING LOANS FOR THE LATEST MONTH BEFORE THE TIME-OUT MORTGAGE LOAN WAS  
23 ISSUED BY THE AUTHORITY TO THE HOMEOWNER-BORROWER, A NEW MONTHLY PRINCIPAL  
24 PAYMENT ON THE LOSS RECAPTURE CERTIFICATE SHALL BE DETERMINED BY THE PROGRAM  
25 ADMINISTRATOR SO THAT THE REMAINING SCHEDULED PRINCIPAL PAYMENTS ARE  
26 APPROXIMATELY EQUAL. NOTWITHSTANDING THE CALCULATIONS PRESCRIBED IN THIS  
27 SUBSECTION, IF THE REQUIRED MONTHLY PAYMENT FOR THE LOSS RECAPTURE  
28 CERTIFICATE RESULTS IN THE SUM OF THE REQUIRED MONTHLY PAYMENTS FOR THE  
29 TIME-OUT MORTGAGE LOAN AND THE LOSS RECAPTURE CERTIFICATE EXCEEDING  
30 TWO-THIRDS OF THE SUM OF THE REQUIRED MONTHLY PAYMENTS ON ALL EXISTING LOANS  
31 FOR THE LATEST MONTH BEFORE THE TIME-OUT MORTGAGE LOAN WAS ISSUED BY THE  
32 AUTHORITY TO THE HOMEOWNER-BORROWER, THE REQUIRED MONTHLY PRINCIPAL PAYMENT  
33 FOR THE LOSS RECAPTURE CERTIFICATE SHALL BE REDUCED TO AN AMOUNT THAT WILL  
34 RESULT IN THE SUM OF THE REQUIRED MONTHLY PAYMENTS FOR THE TIME-OUT MORTGAGE  
35 LOAN AND THE LOSS RECAPTURE CERTIFICATE BEING EQUAL TO TWO-THIRDS OF THE SUM  
36 OF THE REQUIRED MONTHLY PAYMENTS ON ALL EXISTING LOANS FOR THE LATEST MONTH  
37 BEFORE THE TIME-OUT MORTGAGE LOAN WAS ISSUED."

38 Page 16, line 5, strike "RECOURSE" insert "NONRECOURSE"

39 Line 7, after the period strike remainder of line

40 Strike lines 8 through 12

1 Page 16, line 13, strike "DEBT," insert "IF THE PROGRAM ADMINISTRATOR DETERMINES  
2 THAT THE DEBT IS RECOURSE DEBT AND"

3 Lines 27, 31, 35 and 45, after "DOLLARS" insert "OR THE REMAINING PRINCIPAL  
4 AMOUNT, WHICHEVER IS LESS"

5 Page 17, lines 1, 2, 7 and 9, after "DOLLARS" insert "OR THE REMAINING PRINCIPAL  
6 AMOUNT, WHICHEVER IS LESS"

7 Line 10, after "HUNDRED" insert "DOLLARS OR THE REMAINING PRINCIPAL AMOUNT,  
8 WHICHEVER IS LESS"

9 Line 16, after "ON" insert "THE BORROWER OF"

10 Line 26, strike "FINE" insert "CIVIL PENALTY"

11 Line 27, strike "FINES" insert "CIVIL PENALTIES"

12 Line 29, after "FUND" insert "ESTABLISHED BY SECTION 41-5114"

13 Between lines 29 and 30, insert:

14 "Sec. 3. Severability

15 If any provision of this act or its application to any person or  
16 circumstance is held invalid, the invalidity does not affect other provisions  
17 or application of this act that can be given effect without the invalid  
18 provision or application, and to this end the provisions of this act are  
19 severable."

20 Renumber to conform

21 After line 39, insert:

22 "Sec. 5. Emergency

23 This act is an emergency measure that is necessary to preserve the  
24 public peace, health or safety and is operative immediately as provided by  
25 law."

26 Amend title to conform