

## Session 115 - (2003-2004)

**S\*0438 (Rat #0095, Act #0042 of 2003) General Bill, By Senate Banking and Insurance**

**Similar (S 0017, H 3125, H 3616)**

**Summary:** Predatory Lending Bill

AN ACT 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 THE OPPORTUNITY FOR 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 PROVIDE FOR CERTAIN DISCLOSURES TO THE BORROWER BEFORE THE LOAN IS MADE, TO PROVIDE FOR ENFORCEMENT BY THE ADMINISTRATOR OF THE DEPARTMENT OF CONSUMER AFFAIRS, ATTORNEY GENERAL, COMMISSIONER OF BANKING, THE DIRECTOR OF THE CONSUMER FINANCE DIVISION, OR A PARTY TO THE LOAN, TO PROVIDE FOR REMEDIES AND PENALTIES FOR VIOLATIONS OF THE HIGH-COST HOME LOAN RESTRICTIONS AND PROHIBITIONS INCLUDING ATTORNEY'S FEES, 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, TO PROVIDE FOR PENALTIES AND REMEDIES INCLUDING ATTORNEY'S FEES; TO PROVIDE FOR REPAYMENT WITHOUT PENALTY OF CERTAIN LOANS; TO PROVIDE FOR DISCLOSURE OF THE AMOUNT THE LENDER EARNS FROM THE LOAN; TO PROVIDE FOR ESTABLISHMENT OF GOOD FAITH BY A LENDER; 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, TO INCREASE THE PENALTY AMOUNT, AND TO PROHIBIT CLASS ACTIONS; 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; TO AMEND SECTION 37-3-103, RELATING TO DEFINITIONS FOR PURPOSES OF CONSUMER PROTECTION, BY DEFINING "SHORT-TERM VEHICLE SECURED LOAN"; TO ADD SECTION 37-3-413 SO AS TO PROVIDE THAT CERTAIN RESTRICTIONS APPLY TO A CONSUMER LOAN BY A SUPERVISED LENDER WITH SCHEDULED LOAN PAYMENTS OF FEWER THAN TWO HUNDRED FORTY DAYS INCLUDING DISCLOSURE REQUIREMENTS, PROHIBITION ON PREPAYMENT PENALTIES, AND LIMITS ON RENEWALS; TO ADD SECTION 40-58-78 SO AS TO PRESCRIBE AND PROHIBIT CERTAIN ACTS BY A MORTGAGE BROKER OR ORIGINATOR; AND TO ADD SECTION 34-1-140 SO AS TO PROVIDE THAT A POLITICAL SUBDIVISION OF THIS STATE MAY NOT REGULATE LENDING AND FINANCIAL ACTIVITIES OF CERTAIN ENTITIES. - ratified title

**03/04/03 Senate Introduced, read first time, placed on calendar without reference SJ-6**

**03/05/03 Scrivener's error corrected**

**03/12/03 Senate Amended SJ-19**

**03/12/03 Senate Debate interrupted SJ-19**

**03/13/03 Senate Amended SJ-38**

**03/13/03 Senate Debate interrupted SJ-38**

03/13/03		Scrivener's error corrected
03/17/03		Scrivener's error corrected
03/18/03	Senate	Amended SJ-21
03/18/03	Senate	Read second time SJ-21
03/18/03	Senate	Ordered to third reading with notice of amendments SJ-21
03/18/03	Senate	Not to be taken up before Wednesday, 3/26/03 SJ-26
03/19/03		Scrivener's error corrected
03/26/03	Senate	Amended SJ-46
03/26/03	Senate	Read third time and sent to House SJ-46
04/01/03		Scrivener's error corrected
04/01/03	House	Introduced, read first time, placed on calendar without reference HJ-17
04/02/03	House	Amended HJ-29
04/02/03	House	Read second time HJ-66
04/02/03		Scrivener's error corrected
04/03/03	House	Read third time and returned to Senate with amendments HJ-5
04/08/03	Senate	House amendment amended SJ-3
04/08/03	Senate	Returned to House with amendments SJ-3
04/09/03	House	Non-concurrence in Senate amendment HJ-3
04/09/03		Scrivener's error corrected
04/09/03	Senate	Senate insists upon amendment and conference committee appointed Hayes, Short, Jackson SJ-27
04/10/03	House	Conference committee appointed Reps. Cato, Chellis, and JH Neal HJ-3
05/15/03	House	Conference report received and adopted HJ-51
05/15/03	Senate	Conference report received and adopted SJ-8
05/20/03	House	Ordered enrolled for ratification HJ-4
05/28/03		Ratified R 95
06/03/03		Signed By Governor
06/12/03		Copies available
06/12/03		Effective date 01/01/04
06/19/03		Act No. 42