

NONRECOURSE MORTGAGE LOAN ACT

Act 67 of 2012

AN ACT to regulate the use and enforceability of certain loan covenants in nonrecourse commercial loan transactions in this state.

Compiler's Notes: <Paragraph><P>Enacting section 1 of Act 67 of 2012 provides:</P></Paragraph><Paragraph><P>"Enacting section 1. The legislature recognizes that it is inherent in a nonrecourse loan that the lender takes the risk of a borrower's insolvency, inability to pay, or lack of adequate capital after the loan is made and that the parties do not intend that the borrower is personally liable for payment of a nonrecourse loan if the borrower is insolvent, unable to pay, or lacks adequate capital after the loan is made. The legislature recognizes that the use of a post closing solvency covenant as a nonrecourse carveout, or an interpretation of any provision in a loan document that results in a determination that a post closing solvency covenant is a nonrecourse carveout, is inconsistent with this act and the nature of a nonrecourse loan; is an unfair and deceptive business practice and against public policy; and should not be enforced. It is the intent of the legislature that this act applies to any claim made or action taken to enforce a post closing solvency covenant on or after the effective date of this act; to any claim made to enforce a post closing solvency covenant that is pending on the effective date of this act; and to any action to enforce a post closing solvency covenant that is pending on the effective date of this act, unless a judgment or final order has been entered in that action and all rights to appeal that judgment or final order have been exhausted or have expired."</P></Paragraph>

The People of the State of Michigan enact:

445.1591 Short title.

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445.1592 Definitions.

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445.1593 Post closing solvency covenant; prohibited use.

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445.1594 Loan documents not containing nonrecourse loan provisions; use.

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445.1595 Enforcement and interpretation of existing nonrecourse loan documents.

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