

1 SB233  
2 109070-3  
3 By Senators Denton, Little (T), Little (Z), Bedford, Barron,  
4 Figures, Benefield, Means, and Penn  
5 RFD: Judiciary  
6 First Read: 03-FEB-09

1 SB233

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4 ENROLLED, An Act,

5 To establish the Alabama Residential Mortgage Fraud  
6 Act, to define the offense; to give district attorneys and the  
7 Attorney General the authority to investigate; and in  
8 connection therewith would have as its purpose or effect the  
9 requirement of a new or increased expenditure of local funds  
10 within the meaning of Amendment 621 of the Constitution of  
11 Alabama of 1901, now appearing as Section 111.05 of the  
12 Official Recompilation of the Constitution of Alabama of 1901,  
13 as amended.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. This act shall be known and may be cited  
16 as the Alabama Residential Mortgage Fraud Act.

17 Section 2. For the protection of the general public,  
18 including borrowers and lending institutions, and for the  
19 integrity of the mortgage lending process, the Legislature  
20 shall enact the "Alabama Residential Mortgage Fraud Act."

21 Section 3. (a) An individual commits the offense of  
22 residential mortgage fraud when with the intent to defraud, he  
23 or she does any of the following:

24 (1) Knowingly makes any material deliberate  
25 misstatement or misrepresentation, knowing the same to be a

1 misstatement or misrepresentation during the mortgage lending  
2 process with the specific intention that it be relied on by a  
3 mortgage broker, mortgage lender, mortgage servicer, mortgage  
4 processor, borrower, or any other party to the mortgage  
5 lending process.

6 (2) Knowingly uses or facilitates the use of any  
7 material deliberate and known misstatement or  
8 misrepresentation knowing the same to contain a misstatement  
9 or misrepresentation during the mortgage lending process with  
10 the specific intention that it be relied on by a mortgage  
11 broker, mortgage lender, mortgage servicer, mortgage  
12 processor, borrower, or any other party to the mortgage  
13 lending process.

14 (3) Files or causes to be filed with any public  
15 office any document that the person knows to contain a  
16 material deliberate misstatement or misrepresentation with the  
17 specific intent to cause a residential mortgage fraud.

18 (b) For the purposes of venue, any violation of this  
19 section shall be considered to have been committed at any of  
20 the following:

21 (1) In the county in which the residential property  
22 for which a mortgage loan is being sought is located.

23 (2) In any county in which any act was performed in  
24 furtherance of this violation.

1           (3) In any county in which any individual alleged to  
2 have violated this act had control or possession of any  
3 proceeds of this violation.

4           (4) If a closing occurred, in any county in which  
5 the closing occurred.

6           (5) In any county in which a document containing a  
7 deliberate misstatement, misrepresentation, or omission was  
8 filed with a public official.

9           (c) District attorneys and the Attorney General  
10 shall have the authority to conduct the criminal  
11 investigations of all cases of residential mortgage fraud  
12 under this section.

13           (d) (1) Residential mortgage fraud is a Class C  
14 felony.

15           (2) Each residential mortgage transaction subject to  
16 a violation of this section shall constitute a separate  
17 offense and shall not merge with any other crimes set forth in  
18 this section.

19           Section 4. Although this bill would have as its  
20 purpose or effect the requirement of a new or increased  
21 expenditure of local funds, the bill is excluded from further  
22 requirements and application under Amendment 621, now  
23 appearing as Section 111.05 of the Official Recompilation of  
24 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an  
2 existing crime.

3 Section 5. This act shall become effective three  
4 months following its passage and approval by the Governor, or  
5 its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB233

Senate 28-APR-09

I hereby certify that the within Act originated in and passed the Senate, as amended.

McDowell Lee  
Secretary

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House of Representatives  
Passed: 15-MAY-09

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By: Senator Denton