CHAPTER 528

ALTERNATIVE MORTGAGE LOANS

Referred to in §669.14

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528.1 Title.

This chapter is entitled *"Alternative and Reverse Annuity Mortgage Loan Act"*.

89 Acts, ch 267, §1

528.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. *"Administrator"* means the superintendent of banking and the superintendent of credit unions within the department of commerce.
2. *"Alternative mortgage loan"* means a mortgage loan which is a reverse annuity mortgage loan or graduated payment mortgage loan.
3. *"Financial institution"* means financial institution as defined in section 535A.1.
4. *"Graduated payment mortgage loan"* means a mortgage loan in which principal and interest payments, if any, and the making of additional advances, if any, are scheduled to reflect the prospective increasing or decreasing income of the mortgagor.
5. *"Mortgage loan"* means a loan secured by a first mortgage on one, two, three, or four family, owner-occupied residential real property.
6. *"Reverse annuity mortgage loan"* means a mortgage loan in which either the loan proceeds are used to purchase an annuity with the annuity proceeds to be advanced to the mortgagors, or the loan proceeds are directly advanced to the mortgagors, in ten or more installments, either directly or indirectly, and which together with unpaid interest, if any, are to be repaid in accordance with section 528.7.

89 Acts, ch 267, §2; 2012 Acts, ch 1017, §125

528.3 Financial institutions allowed to make alternative mortgages.

A financial institution may make alternative mortgage loans in accordance with this chapter. General provisions governing a financial institution's mortgage loans apply to alternative mortgage loans unless inconsistent with the provisions of this chapter. This chapter does not prohibit a financial institution from making any loan which is not an alternative mortgage loan, provided such loan otherwise complies with applicable laws.

89 Acts, ch 267, §3

528.4 Prepayment penalty prohibited.

A financial institution making an alternative mortgage loan may contract with the mortgagor for interest to be paid currently or to accrue, and if accrued, for accrued interest to be added to the mortgage debt on which interest may be charged and collected. Accrued interest which is added to the mortgage debt shall be secured by the mortgage to the same extent as the principal of the alternative mortgage loan. An instrument evidencing an alternative mortgage loan shall not contain a provision imposing a penalty for prepayment of the loan.

89 Acts, ch 267, §4

528.5 Disclosure of alternative mortgage loan information to applicants.

1. A financial institution that offers or makes an alternative mortgage loan shall include in any disclosure of the rates or availability of mortgage loans, the rates and availability of reverse annuity mortgages or graduated payment mortgage loans, if and when such loans are offered. The administrator may prescribe by rule forms for the required disclosures.

2. A prospective mortgage loan applicant shall have the choice of applying for a mortgage loan or any type of alternative mortgage loan offered by the financial institution.

89 Acts, ch 267, §5

528.6 Prototype plan for alternative mortgage loans — approval by administrator.

1. Before a financial institution makes an alternative mortgage loan, it shall submit to the administrator for that type of institution, for the administrator's approval, the prototype plan and subsequent amendments to the plan under which alternative mortgage loans are to be made. A plan submitted shall include a copy of the form of note and mortgage instrument that will be used for that type of alternative mortgage loan, a detailed description of how the plan will function, and other information as the administrator requires. The administrator shall specifically review the mortgage instrument submitted as part of the plan to ensure that any default provisions included in the deed pursuant to section 528.7, subsection 2, paragraph "*c*", are necessary to protect the interests of the mortgagee and are fair and equitable for the mortgagor. A reverse annuity mortgage shall provide that the mortgagor or mortgagors of the property shall retain a life estate in the property until the death of the mortgagor or all of the mortgagors, notwithstanding that the annuity may expire prior to the end of the life estate, depending upon the terms of the annuity.

2. The administrator may approve any plan and amendment to a plan that in the administrator's opinion serves the best interests of prospective mortgagors and mortgagees. The administrator's considerations shall include, without limitation, the flexibility of each plan to serve the differing needs of various persons who may apply for an alternative mortgage loan under the plan.

3. If the administrator approves the plan or amendment, the financial institution may make alternative mortgage loans in accordance with the approved plan and any approved amendments.

4. This section applies to all alternative mortgage loans made on or after January 1, 1990.

89 Acts, ch 267, §6

528.7 Reduction in installment payments — repayment of mortgage debt.

1. If the mortgagee or its assignee and the mortgagor agree, any installment payment of either the loan proceeds or an annuity purchased with the loan proceeds of a reverse annuity mortgage loan may be reduced by an amount used for partial repayment of the mortgage debt, except as provided in subsection 2 of this section.

a. Notwithstanding any such reduction, each mortgagor shall receive a cash payment in each installment for the term of the annuity or, if no annuity, for the term during which the mortgagee contracted with the mortgagor to advance the loan proceeds.

b. Except as provided in subsection 2, no repayments of any part of the mortgage debt shall be required from the mortgagor after termination of the period during which loan proceeds or any annuity purchased with the loan proceeds are advanced to the mortgagor.

2. If the mortgagee or its assignee and the mortgagor agree, and at the option of the mortgagee, advances under a reverse annuity mortgage loan may terminate and the entire unpaid balance of the loan plus accrued interest may become due and payable upon the occurrence of any of the following events:

a. The death of the last surviving mortgagor.

b. The sale or other transfer of the real estate securing the loan to a person other than any of the original mortgagors.

c. Any other occurrence which materially decreases the value of the property securing

the loan or which will have the likely effect of causing the loan not to be repaid. Any such additional occurrence shall be clearly described in the note or mortgage instrument.

89 Acts, ch 267, §7
Referred to in §528.2, §528.6

528.8 Interest on graduated payment mortgage loans.

A graduated payment mortgage loan offered or made by a financial institution shall provide for interest at a specified rate or a series of specified rates.

89 Acts, ch 267, §8

528.9 Rules.

The administrator may adopt rules pursuant to chapter 17A, as the administrator deems necessary and convenient to carry out the provisions of this chapter.

89 Acts, ch 267, §9