

MAR 7 2006
Place On Calendar

HOUSE FILE 2671
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 2446)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to illegal aliens of the United States including
2 restricting the allocation of housing trust fund moneys,
3 prohibiting the servicing of first mortgages, relating to
4 employment, and providing for penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2671

1 Section 1. Section 16.181, Code 2005, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. Funds allocated from the housing
4 trust fund shall not be used for the provision of rental
5 housing for persons who are not lawfully present in the United
6 States. This subsection does not apply to funds allocated to
7 homeless shelters.

8 Sec. 2. NEW SECTION. 91F.1 DEFINITIONS.

9 As used in this chapter:

10 1. "Commissioner" means the labor commissioner.

11 2. "Employee" means a natural person who is employed in
12 this state for wages paid on an hourly basis by an employer.

13 3. "Employer" means a person, as defined in section 4.1,
14 who in this state employs for wages, paid on an hourly basis,
15 one or more natural persons. An employer does not include a
16 client, patient, customer, or other person who obtains
17 professional services from a licensed person who provides the
18 services on a fee service basis or as an independent
19 contractor, or the state, or an agency or governmental
20 subdivision of the state.

21 4. "Unauthorized alien" means a person who is not lawfully
22 present in the United States.

23 Sec. 3. NEW SECTION. 91F.2 UNAUTHORIZED ALIENS --
24 EMPLOYER PROHIBITION.

25 An employer shall not knowingly employ as an employee an
26 unauthorized alien. For purposes of this section, "knowingly
27 employ as an employee an unauthorized alien" means an employer
28 has actual knowledge that a person is an unauthorized alien
29 and employs the person as an employee. An employer who
30 obtains a verification of employment eligibility form required
31 by the federal Immigration Reform and Control Act of 1986, 8
32 U.S.C. § 1324a, shall not be considered in violation of this
33 chapter.

34 Sec. 4. NEW SECTION. 91F.3 PENALTIES.

35 1. An employer who violates section 91F.2 is subject to a

1 civil penalty of up to one thousand dollars.

2 2. A corporate officer of an employer who, by knowingly
3 directing the repeated violation of section 91F.2,
4 demonstrates a pattern of employing unauthorized aliens
5 commits a serious misdemeanor.

6 3. An employer who, through repeated violation of section
7 91F.2, demonstrates a pattern of employing unauthorized aliens
8 may be ordered to pay punitive damages.

9 Sec. 5. NEW SECTION. 91F.4 DUTIES AND AUTHORITY OF THE
10 COMMISSIONER -- ENFORCEMENT BY ATTORNEY GENERAL.

11 1. The commissioner shall adopt rules to implement and
12 enforce this chapter.

13 2. In order to carry out the purposes of this chapter, the
14 commissioner or the commissioner's representative, upon
15 presenting appropriate credentials to an employer's owner,
16 operator, or agent in charge, may:

17 a. Inspect employment records relating to the employees of
18 the employer.

19 b. Interview an employer, owner, operator, agent, or
20 employee, during working hours or at other reasonable times.

21 3. If the commissioner has reason to believe than an
22 employer may be in violation of this chapter, the commissioner
23 shall notify the attorney general, and provide the attorney
24 general with any supporting information, for prosecution of
25 the violation by the attorney general.

26 Sec. 6. NEW SECTION. 91F.5 PROHIBITIONS RELATING TO
27 CERTAIN ACTIONS BY EMPLOYEES -- PENALTY -- CIVIL REMEDY.

28 1. An employer shall not discharge an employee or take or
29 fail to take action regarding an employee's appointment or
30 proposed appointment or promotion or proposed promotion, or
31 regarding any advantage of an employee as a reprisal for a
32 failure by that employee to inform the employer that the
33 employee made a disclosure of information to any law
34 enforcement agency if the employee reasonably believes the
35 information evidences a violation of section 91F.2.

1 2. Subsection 1 does not apply if the disclosure of the
2 information is prohibited by statute.

3 3. An employer who violates subsection 1 commits a simple
4 misdemeanor.

5 4. Subsection 1 may be enforced through a civil action.

6 a. An employer who violates subsection 1 is liable to an
7 aggrieved employee for affirmative relief, including
8 reinstatement, with or without back pay, or any other
9 equitable relief the court deems appropriate, including
10 attorney fees and costs.

11 b. If an employer commits, is committing, or proposes to
12 commit an act in violation of subsection 1, an injunction may
13 be granted through an action in district court to prohibit the
14 person from continuing such acts. The action for injunctive
15 relief may be brought by an aggrieved employee or the attorney
16 general.

17 Sec. 7. NEW SECTION. 535B.11A MORTGAGES TO PERSONS
18 UNLAWFULLY PRESENT.

19 A licensee or other mortgagee who services mortgages on
20 residential real estate located in this state shall not
21 knowingly service a first mortgage loan for residential real
22 property that is originated on or after July 1, 2007, and is
23 intended to be used as a primary residence in this state of a
24 person who is not lawfully present in the United States. The
25 enforcement provisions of section 535B.13 shall not apply to a
26 violation under this section. The attorney general may file
27 an action for injunctive relief against a licensee or other
28 mortgagee who violates this section. A licensee or other
29 mortgagee who complies with the customer identification
30 program requirements under 31 U.S.C. § 5318(l) shall not be
31 considered in violation of this section.

32 EXPLANATION

33 This bill relates to illegal aliens by restricting access
34 to certain financing of housing and prohibiting employment.
35 The bill prohibits funds allocated from the housing trust fund

1 in Code section 16.181 by the Iowa finance authority to be
2 used to provide rental housing for persons who are not
3 lawfully present in the United States. The housing trust fund
4 provides funds to local housing authorities for the local
5 housing trust fund program and the project-based housing
6 program. The bill does not apply to funding for homeless
7 shelters.

8 The bill also provides that a mortgage banker or mortgage
9 broker licensed under Code chapter 535B or other mortgagee who
10 services mortgages on residential real estate in this state
11 shall not knowingly service certain mortgage loans to a person
12 who is not lawfully present in the United States. This
13 restriction under the bill applies only to first mortgage
14 loans for residential real property that are intended to be
15 used as a primary residence of a person who is not lawfully
16 present in the United States. Under current law, a "first
17 mortgage loan" is defined as a loan of money secured by a
18 first lien on residential real property and includes a
19 refinancing of a contract of sale, an assumption of a prior
20 loan, and a refinancing of a prior loan. A licensee or other
21 mortgagee cannot be found in violation of the bill if the
22 licensee or mortgagee complies with certain federal laws
23 relating to customer identification. A violation of this
24 provision of the bill could be enjoined at the request of the
25 attorney general.

26 The bill creates new Code chapter 91F prohibiting employers
27 from employing unauthorized aliens. The bill defines
28 "unauthorized aliens" as any person who is not lawfully
29 present in the United States. An "employer" is any person who
30 employs for wages, paid on an hourly basis, one or more
31 natural persons. The bill prohibits employers from knowingly
32 employing an unauthorized alien. The bill provides that a
33 violation can occur in cases in which an employer actually
34 knows a person is an unauthorized alien. The bill provides
35 that a violation of this chapter is subject to a civil penalty

1 of \$1,000 and a corporate officer of an employer who, through
2 knowingly directing the repeated violations of the chapter,
3 demonstrates a pattern of employing unauthorized aliens,
4 commits a serious misdemeanor. An employer who demonstrates a
5 pattern of employing unauthorized aliens may be ordered to pay
6 punitive damages. The bill further authorizes the labor
7 commissioner within the department of workforce development to
8 adopt rules to implement and enforce this new chapter and
9 grants the commissioner the authority to investigate employer
10 records and to interview employees. The bill provides that
11 the commissioner shall forward any suspected violations of
12 this chapter to the attorney general for prosecution.

13 The bill further provides that an employer shall not
14 discharge an employee from or take or fail to take action
15 regarding an employee's appointment or proposed appointment,
16 promotion or proposed promotion, or regarding any advantage of
17 an employee as a reprisal for a failure by that employee to
18 inform the employer that the employee made a disclosure of
19 information to any law enforcement agency if the employee
20 reasonably believes the information evidences a violation of
21 Code section 91F.2. An employer who violates these provisions
22 of this chapter commits a simple misdemeanor and is liable to
23 an aggrieved employee for affirmative relief including
24 reinstatement, with or without back pay, or any other
25 equitable relief the court deems appropriate, including
26 attorney fees and costs. In addition, an action for
27 injunctive relief may be brought by an aggrieved employee or
28 the attorney general.

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HOUSE FILE 2671

H-8220

- 1 Amend House File 2671 as follows:
- 2 1. Page 3, by striking lines 19 through 22 and
- 3 inserting the following:
- 4 "A licensee or other mortgagee shall not knowingly
- 5 originate a first mortgage loan for residential real
- 6 estate located in this state on or after July 1, 2007,
- 7 that is".

By SANDS of Louisa

H-8220 FILED MARCH 14, 2006

HOUSE FILE 2671

H-8246

- 1 Amend House File 2671 as follows:
- 2 1. Page 3, by inserting after line 31 the
- 3 following:
- 4 "Sec. ____ . Sections 1.18 and 4.14, Code 2005, are
- 5 repealed."
- 6 2. Title page, line 4, by inserting after the
- 7 word "employment," the following: "repealing official
- 8 English language requirements,".
- 9 3. By renumbering as necessary.

By FORD of Polk

H-8246 FILED MARCH 14, 2006

HOUSE FILE 2671

H-8294

1 Amend House File 2671 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. NEW SECTION. 13.6A SPECIAL ASSISTANT
5 -- HUMAN TRAFFICKING AND RELATED OFFENSES --
6 EMPLOYMENT OF UNAUTHORIZED ALIENS.

7 The attorney general shall appoint a special
8 assistant attorney general for claims who shall, under
9 the direction of the attorney general, investigate and
10 prosecute all claims relating to the crime of human
11 trafficking and related offenses pursuant to sections
12 710A.2, 710A.3, and 710A.4 and the employment of
13 unauthorized aliens pursuant to section 91F.2. The
14 special assistant attorney general appointed pursuant
15 to this section shall work with the director of
16 revenue and the commissioner of insurance in
17 investigating the employment of unauthorized aliens,
18 including the examination of certain tax and insurance
19 documents."

20 2. Page 2, line 35, by inserting after the figure
21 "91F.2" the following: ", 710A.2, 710A.3, or 710A.4".

22 3. Page 3, by inserting after line 31 the
23 following:

24 "Sec. ____ . NEW SECTION. 710A.1 DEFINITIONS.

25 As used in this chapter:

26 1. "Commercial sexual activity" means any sex act
27 on behalf of which anything of value is given,
28 promised to, or received by any person and includes,
29 but is not limited to, prostitution, participation in
30 the production of pornography, and performance in
31 strip clubs.

32 2. "Forced labor or services" means labor or
33 services that are performed or provided by another
34 person and that are obtained or maintained through any
35 of the following:

36 a. Causing or threatening to cause serious
37 physical injury to any person.

38 b. Physically restraining or threatening to
39 physically restrain another person.

40 c. Abusing or threatening to abuse the law or
41 legal process.

42 d. Knowingly destroying, concealing, removing,
43 confiscating, or possessing any actual or purported
44 passport or other immigration document, or any other
45 actual or purported government identification
46 document, of another person.

47 3. "Labor" means work of economic or financial
48 value.

49 4. "Maintain" means, in relation to labor and
50 services, to secure continued performance thereof,

H-8294

1 regardless of any initial agreement on the part of the
2 victim to perform such type of services.

3 5. "Minor" means a person under the age of
4 eighteen years.

5 6. "Obtain" means, in relation to labor or
6 services, to secure performance thereof.

7 7. "Services" means an ongoing relationship
8 between a person and the actor in which the person
9 performs activities under the supervision of or for
10 the benefit of the actor, including commercial sexual
11 activity and sexually explicit performances.

12 8. "Sexually explicit performance" means a live or
13 public act or show intended to arouse or satisfy the
14 sexual desires or appeal to the prurient interest of
15 patrons.

16 9. "Venture" means any group of two or more
17 persons associated in fact, whether or not a legal
18 entity.

19 10. "Victim" means a person subjected to the
20 practices set forth in section 710A.2, 710A.3, or
21 710A.4.

22 Sec. ____ . NEW SECTION. 710A.2 FORCED LABOR AND
23 SERVICES.

24 1. A person who knowingly subjects, attempts to
25 subject, or engages in a conspiracy to subject another
26 person to forced labor or services by causing or
27 threatening to cause serious physical injury to that
28 other person is guilty of a class "B" felony, except
29 that if that other person is a minor, a person who
30 violates this subsection is guilty of a class "A"
31 felony.

32 2. A person who knowingly subjects, attempts to
33 subject, or engages in a conspiracy to subject another
34 person to forced labor or services by physically
35 restraining or threatening to physically restrain that
36 other person is guilty of a class "C" felony, except
37 that if that other person is a minor, a person who
38 violates this subsection is guilty of a class "B"
39 felony.

40 3. A person who knowingly subjects, attempts to
41 subject, or engages in a conspiracy to subject another
42 person to forced labor or services by abusing or
43 threatening to abuse the law or legal process is
44 guilty of a class "D" felony, except that if that
45 other person is a minor, a person who violates this
46 subsection is guilty of a class "C" felony.

47 4. A person who knowingly subjects, attempts to
48 subject, or engages in a conspiracy to subject another
49 person to forced labor or services by knowingly
50 destroying, concealing, removing, confiscating, or

1 possessing any actual or purported passport or other
2 immigration document, or any other actual or purported
3 government identification document, of that other
4 person is guilty of a class "D" felony, except that if
5 that other person is a minor, a person who violates
6 this subsection is guilty of a class "C" felony.

7 Sec. ____ . NEW SECTION. 710A.3 HUMAN TRAFFICKING
8 -- FORCED LABOR AND SERVICES.

9 1. A person shall not knowingly recruit, entice,
10 harbor, transport, provide, or obtain by any means, or
11 attempt to recruit, entice, harbor, transport,
12 provide, or obtain by any means, another person, with
13 the intent that the other person be subjected to
14 forced labor or services.

15 2. A person shall not knowingly benefit,
16 financially or by receiving anything of value, from
17 participation in a venture that involves a violation
18 of this section.

19 3. A person who violates this section is guilty of
20 a class "B" felony, except that if the other person is
21 a minor, a person who violates this section is guilty
22 of a class "A" felony.

23 Sec. ____ . NEW SECTION. 710A.4 HUMAN TRAFFICKING
24 -- SEXUAL EXPLOITATION OF A MINOR.

25 1. A person shall not knowingly recruit, entice,
26 harbor, transport, provide, or obtain by any means, or
27 attempt to recruit, entice, harbor, transport,
28 provide, or obtain by any means, a minor, with the
29 intent that the minor be subjected to sexual
30 exploitation in violation of section 728.12.

31 2. A person shall not knowingly benefit,
32 financially or by receiving anything of value, from
33 participation in a venture that involves a violation
34 of section 728.12.

35 3. A person who violates this section is guilty of
36 a class "A" felony.

37 Sec. ____ . NEW SECTION. 710A.5 SENTENCING
38 ENHANCEMENTS.

39 1. If a violation of section 710A.2 or 710A.3
40 results in the death of the person or if the person is
41 kidnapped in violation of section 710.2 or 710.3, the
42 defendant is guilty of a class "A" felony.

43 2. In sentencing a person for a violation of
44 section 710A.2, 710A.3, or 710A.4, the court shall
45 sentence the defendant to an additional term of
46 confinement of ten years in cases in which the victim
47 was maintained or held for a period greater than one
48 hundred eighty days or if the offense involved more
49 than ten victims.

50 Sec. ____ . NEW SECTION. 710A.6 CORPORATE

1 LIABILITY.

2 If a corporation is convicted of an offense
3 pursuant to section 710A.2, 710A.3, or 710A.4, in
4 addition to any other penalties provided in this
5 chapter, the court shall, where appropriate, do any of
6 the following:

7 1. Order the corporation's dissolution or
8 reorganization.

9 2. Order the suspension or revocation of any
10 license, permit, or prior approval granted by a state
11 agency.

12 3. Order the surrender of the corporation's
13 organizational authority if organized under state law
14 or revocation of the corporation's authority to
15 conduct business in this state.

16 Sec. ____ . NEW SECTION. 710A.7 RESTITUTION AND
17 ADDITIONAL FINE.

18 In addition to any fine or penalty imposed under
19 this chapter, the court shall order a defendant
20 convicted of a violation of this chapter to make
21 restitution for damages resulting directly from the
22 violation, to the victim, pursuant to chapter 910, and
23 shall include an additional fine of the greater of
24 either the gross income or value of the victim's labor
25 or services or the value of the victim's wages of not
26 less than the applicable federal minimum wage under
27 the federal Fair Labor Standards Act.

28 Sec. ____ . NEW SECTION. 915.51 GENERAL RIGHTS OF
29 HUMAN TRAFFICKING VICTIMS.

30 1. In addition to other victim rights provided in
31 this chapter, including the right to receive victim
32 compensation pursuant to section 915.84 and the right
33 to exert victim counseling privileges pursuant to
34 section 915.20A, victims of a crime described in
35 section 710A.2, 710A.3, or 710A.4 shall have the
36 following rights without regard to their immigration
37 status:

38 a. The right to receive prompt medical care
39 including mental health care, food, shelter, and other
40 assistance, if necessary.

41 b. The right to have access to legal assistance
42 and translation services, if necessary.

43 c. The right to receive reasonable police
44 protection if a victim's safety is at risk or if there
45 is any danger of additional harm, including measures
46 to protect victims and their family members from
47 intimidation and threats of reprisals from traffickers
48 and their associates and ensuring that the names and
49 identifying information of victims and their family
50 members are not disclosed to the public.

H-8294

Page 5

- 1 2. The departments of human services, human
- 2 rights, health, public safety, justice, and other
- 3 public state agencies shall provide the requisite
- 4 services to assist in the administration of this
- 5 section."
- 6 4. Title page, line 4, by inserting after the
- 7 word "employment," the following: "relating to human
- 8 trafficking,".
- 9 5. By renumbering as necessary.

By WINCKLER of Scott

H-8294 FILED MARCH 16, 2006

OUT OF ORDER

HOUSE FILE 2671

H-8297

- 1 Amend the amendment, H-8220, to House File 2671, as
- 2 follows:
- 3 1. Page 1, line 2, by striking the figures and
- 4 words "19 through 22 and" and inserting the following:
- 5 "17 through 31."
- 6 2. Page 1, by striking lines 3 through 7 and
- 7 inserting the following:
- 8 "___". Title page, by striking line 3 and
- 9 inserting the following: "relating to"."
- 10 3. By renumbering as necessary.

By WISE of Lee

QUIRK of Chickasaw

PETTENGILL of Benton

H-8297 FILED MARCH 16, 2006

LOST

HOUSE FILE 2671

H-8298

- 1 Amend the amendment, H-8220, to House File 2671, as
- 2 follows:
- 3 1. Page 1, by inserting after line 7 the
- 4 following:
- 5 "___". Page 3, by inserting after line 31 the
- 6 following:
- 7 "If a person who has agreed to buy residential real
- 8 property is denied a first mortgage loan pursuant to
- 9 this section and cannot otherwise comply with the
- 10 terms of the agreement, the seller of the property
- 11 shall be entitled to any down payment, earnest money,
- 12 or other trust funds held by a real estate broker
- 13 pursuant to section 543B.46 paid by the person or on
- 14 behalf of the person pursuant to the agreement.""

By WISE of Lee

QUIRK of Chickasaw

H-8298 FILED MARCH 16, 2006

WITHDRAWN

HOUSE FILE 2671

H-8299

1 Amend the amendment, H-8220, to House File 2671, as
2 follows:
3 1. Page 1, by inserting before line 2 the
4 following:
5 "____. Page 3, by inserting after line 16 the
6 following:
7 "5. An employer shall not discharge an employee or
8 take or fail to take action regarding an employee's
9 appointment or proposed appointment or promotion or
10 proposed promotion, or regarding any advantage of an
11 employee, or make a report regarding the status of the
12 employee as an unauthorized alien to any federal
13 department or agency as a reprisal against an employee
14 that made a report to a law enforcement agency that
15 the employee has been a victim of sexual abuse or
16 sexual harassment by another employee of the employer.
17 A law enforcement agency that accepts a report of
18 sexual abuse or sexual harassment as described in this
19 subsection shall not make a report regarding the
20 status of the victim as an unauthorized alien to any
21 federal department or agency.""
22 2. By renumbering as necessary.

By FORD of Polk

H-8299 FILED MARCH 16, 2006
ADOPTED

HOUSE FILE 2671

H-8301

1 Amend the amendment, H-8220, to House File 2671, as
2 follows:
3 1. Page 1, by inserting before line 2 the
4 following:
5 "____. Page 1, by striking lines 1 through 7."
6 2. Page 1, line 2, by striking the figures and
7 words "19 through 22 and" and inserting the following:
8 "17 through 31."
9 3. Page 1, by striking lines 3 through 7 and
10 inserting the following:
11 "____. Title page, by striking lines 1 through 4
12 and inserting the following: "An Act relating to the
13 employment of illegal aliens in the United States and
14 providing for penalties.""
15 4. By renumbering as necessary.

By FORD of Polk

H-8301 FILED MARCH 16, 2006
WITHDRAWN

HOUSE FILE 2671

H-8305

1 Amend the amendment, H-8220, to House File 2671, as
2 follows:

3 1. Page 1, by inserting after line 7 the
4 following:

5 "____. Page 3, by inserting after line 31 the
6 following:

7 "If a person who has agreed to buy residential real
8 property is denied a first mortgage loan pursuant to
9 this section and cannot otherwise comply with the
10 terms of the agreement, the seller of the property
11 shall be entitled to any earnest money or other trust
12 funds held by a real estate broker pursuant to section
13 543B.46 paid by the person or on behalf of the person
14 pursuant to the agreement."

By WISE of Lee
QUIRK of Chickasaw
SANDS of Louisa

H-8305 FILED MARCH 16, 2006
ADOPTED

HOUSE FILE 2671
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HF 2446)

(As Amended and Passed by the House March 16, 2006)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to illegal aliens of the United States including
2 restricting the allocation of housing trust fund moneys,
3 prohibiting the servicing of first mortgages, relating to
4 employment, and providing for penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. Section 16.181, Code 2005, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. Funds allocated from the housing
4 trust fund shall not be used for the provision of rental
5 housing for persons who are not lawfully present in the United
6 States. This subsection does not apply to funds allocated to
7 homeless shelters.

8 Sec. 2. NEW SECTION. 91F.1 DEFINITIONS.

9 As used in this chapter:

10 1. "Commissioner" means the labor commissioner.

11 2. "Employee" means a natural person who is employed in
12 this state for wages paid on an hourly basis by an employer.

13 3. "Employer" means a person, as defined in section 4.1,
14 who in this state employs for wages, paid on an hourly basis,
15 one or more natural persons. An employer does not include a
16 client, patient, customer, or other person who obtains
17 professional services from a licensed person who provides the
18 services on a fee service basis or as an independent
19 contractor, or the state, or an agency or governmental
20 subdivision of the state.

21 4. "Unauthorized alien" means a person who is not lawfully
22 present in the United States.

23 Sec. 3. NEW SECTION. 91F.2 UNAUTHORIZED ALIENS --
24 EMPLOYER PROHIBITION.

25 An employer shall not knowingly employ as an employee an
26 unauthorized alien. For purposes of this section, "knowingly
27 employ as an employee an unauthorized alien" means an employer
28 has actual knowledge that a person is an unauthorized alien
29 and employs the person as an employee. An employer who
30 obtains a verification of employment eligibility form required
31 by the federal Immigration Reform and Control Act of 1986, 8
32 U.S.C. § 1324a, shall not be considered in violation of this
33 chapter.

34 Sec. 4. NEW SECTION. 91F.3 PENALTIES.

35 1. An employer who violates section 91F.2 is subject to a

1 civil penalty of up to one thousand dollars.

2 2. A corporate officer of an employer who, by knowingly
3 directing the repeated violation of section 91F.2,
4 demonstrates a pattern of employing unauthorized aliens
5 commits a serious misdemeanor.

6 3. An employer who, through repeated violation of section
7 91F.2, demonstrates a pattern of employing unauthorized aliens
8 may be ordered to pay punitive damages.

9 Sec. 5. NEW SECTION. 91F.4 DUTIES AND AUTHORITY OF THE
10 COMMISSIONER -- ENFORCEMENT BY ATTORNEY GENERAL.

11 1. The commissioner shall adopt rules to implement and
12 enforce this chapter.

13 2. In order to carry out the purposes of this chapter, the
14 commissioner or the commissioner's representative, upon
15 presenting appropriate credentials to an employer's owner,
16 operator, or agent in charge, may:

17 a. Inspect employment records relating to the employees of
18 the employer.

19 b. Interview an employer, owner, operator, agent, or
20 employee, during working hours or at other reasonable times.

21 3. If the commissioner has reason to believe than an
22 employer may be in violation of this chapter, the commissioner
23 shall notify the attorney general, and provide the attorney
24 general with any supporting information, for prosecution of
25 the violation by the attorney general.

26 Sec. 6. NEW SECTION. 91F.5 PROHIBITIONS RELATING TO
27 CERTAIN ACTIONS BY EMPLOYEES -- PENALTY -- CIVIL REMEDY.

28 1. An employer shall not discharge an employee or take or
29 fail to take action regarding an employee's appointment or
30 proposed appointment or promotion or proposed promotion, or
31 regarding any advantage of an employee as a reprisal for a
32 failure by that employee to inform the employer that the
33 employee made a disclosure of information to any law
34 enforcement agency if the employee reasonably believes the
35 information evidences a violation of section 91F.2.

1 2. Subsection 1 does not apply if the disclosure of the
2 information is prohibited by statute.

3 3. An employer who violates subsection 1 commits a simple
4 misdemeanor.

5 4. Subsection 1 may be enforced through a civil action.

6 a. An employer who violates subsection 1 is liable to an
7 aggrieved employee for affirmative relief, including
8 reinstatement, with or without back pay, or any other
9 equitable relief the court deems appropriate, including
10 attorney fees and costs.

11 b. If an employer commits, is committing, or proposes to
12 commit an act in violation of subsection 1, an injunction may
13 be granted through an action in district court to prohibit the
14 person from continuing such acts. The action for injunctive
15 relief may be brought by an aggrieved employee or the attorney
16 general.

17 5. An employer shall not discharge an employee or take or
18 fail to take action regarding an employee's appointment or
19 proposed appointment or promotion or proposed promotion, or
20 regarding any advantage of an employee, or make a report
21 regarding the status of the employee as an unauthorized alien
22 to any federal department or agency as a reprisal against an
23 employee that made a report to a law enforcement agency that
24 the employee has been a victim of sexual abuse or sexual
25 harassment by another employee of the employer. A law
26 enforcement agency that accepts a report of sexual abuse or
27 sexual harassment as described in this subsection shall not
28 make a report regarding the status of the victim as an
29 unauthorized alien to any federal department or agency.

30 Sec. 7. NEW SECTION. 535B.11A MORTGAGES TO PERSONS
31 UNLAWFULLY PRESENT.

32 A licensee or other mortgagee shall not knowingly originate
33 a first mortgage loan for residential real estate located in
34 this state on or after July 1, 2007, that is intended to be
35 used as a primary residence in this state of a person who is

1 not lawfully present in the United States. The enforcement
2 provisions of section 535B.13 shall not apply to a violation
3 under this section. The attorney general may file an action
4 for injunctive relief against a licensee or other mortgagee
5 who violates this section. A licensee or other mortgagee who
6 complies with the customer identification program requirements
7 under 31 U.S.C. § 5318(1) shall not be considered in violation
8 of this section.

9 If a person who has agreed to buy residential real property
10 is denied a first mortgage loan pursuant to this section and
11 cannot otherwise comply with the terms of the agreement, the
12 seller of the property shall be entitled to any earnest money
13 or other trust funds held by a real estate broker pursuant to
14 section 543B.46 paid by the person or on behalf of the person
15 pursuant to the agreement.

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