

Search

ABOUT MEMBERS EVENTS & MEETINGS NEWS

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

## Mortgage Fraud Act

### Summary

This bill modifies the Criminal Code by creating the crime of mortgage fraud.

### Model Legislation

{Title, enacting clause, etc.}

**Section 1. {Title.}** This Act may be cited as the Mortgage Fraud Act.

**Section 2. {Definitions.}** As used in this Act:

(A) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.

(B) "Mortgage loan":

(1) means a loan or agreement made to extend credit to a person when the loan is secured by a deed, security deed, mortgage, security interest, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property; and

(2) includes the renewal or refinancing of any loan.

(C) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony

(D) "Pattern of unlawful activity" means engaging in conduct which constitute the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(E) "Sensitive personal identifying information" means any of the following 34. information regarding an individual's:

(1) Social Security number;

### ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

### ALEC's Corporate Board

—in recent past or present

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- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

- (2) driver license number or other government issued identification number;
  - (3) financial account number or credit or debit card number;
  - (4) password or personal identification number or other identification required to gain access to a financial account or a secure website;
  - (5) automated or electronic signature; and
  - (6) unique biometric data; and
  - (7) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.
- (F) "Value" means the value of the property, money, or thing obtained or sought to be obtained.
- (G) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

### **Section 3. {Mortgage Fraud.}**

(A) A person commits the offense of mortgage fraud if the person does any of the following with the intent to defraud:

- (1) knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (2) knowingly uses or facilitates the use of any material misstatement misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;
- (3) files or causes to be filed with any county recorder in {insert state} any document that the person knows contains a material misstatement, misrepresentation, or omission; or
- (4) receives any proceeds or any compensation in connection with a mortgage loan that the person knows resulted from a violation of this section.

### **Section 4. {Classification of Offense.}**

(A) Notwithstanding any other administrative, civil, or criminal penalties, a person who violates Section 3 is guilty of a:

- (1) class A misdemeanor when the value is or exceeds \$300 but is less than \$1,000;
- (2) third degree felony when the value is or exceeds \$1,000 but is less than \$5,000;
- (3) second degree felony when the value is or exceeds \$5,000;
- (4) second degree felony when the object or purpose of the commission of an act of mortgage fraud is other than the obtaining of something of monetary value; and
- (5) second degree felony when the object or purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the value.

(6) The determination of the degree of any offense under Subsection (A) is measured by the total value of all property, money, or things obtained or sought to be obtained by a violation of Section 3, except as provided in Subsections (A)(4) and (5).

(B) Each residential or commercial property transaction offense under this part constitutes a separate violation.

### **Section 5. {Mortgage Fraud Prosecutor and Investigators.}**

(A) The attorney general shall employ:

(1) an attorney licensed to practice law who:

(i) has knowledge of the law related to mortgage fraud; and

(ii) if possible, has a background or expertise in investigating and prosecuting mortgage fraud; and

(B) At least two investigators who have a background or expertise in investigating mortgage fraud.

(1) The attorney employed under Subsection (A)(1) has as that attorney's primary responsibility the prosecution of mortgage fraud.

(2) Each person employed under Subsection (B) shall have as that person's primary responsibility the investigation of mortgage fraud.

(C) The attorney general may employ clerks, interns, or other personnel to assist the attorney employed under Subsection (A)(1).

### **Section 8. {Effective date.}**

*Adopted by the Criminal Justice & Homeland Security Task Force at the Spring Task Force Summit, May 17, 2008. Approved by the full ALEC Board of Directors June 2008.*

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