

NONRECOURSE MORTGAGE LOAN ACT (EXCERPT)
Act 67 of 2012

445.1595 Enforcement and interpretation of existing nonrecourse loan documents.

Sec. 5.

This act applies to the enforcement and interpretation of all nonrecourse loan documents in existence on, or entered into on or after, the effective date of this act.

History: 2012, Act 67, Imd. Eff. Mar. 29, 2012

Compiler's Notes: Enacting section 1 of Act 67 of 2012 provides: "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."