

Lenders have their day in court over new county law

■ Judge keeps injunction in place until he makes a final decision on whether the County Council overstepped its authority

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A Montgomery County judge heard arguments late last week on whether the County Council went beyond its authority in passing a controversial lending discrimination law last year.

But he did not issue a decision, which leaves an injunction blocking the law indefinitely.

Seven mortgage companies sought an injunction in February to stop the law from taking effect until the matter was settled in court. The companies—represented by the American Financial Services Association, a trade group—said the County Council violated state law when it passed the legislation in November, arguing that only the state has the authority to regulate lending.

The county law, sponsored last year by Councilman Thomas E. Perez (D-Dist. 5) of Takoma Park, is aimed at so-called subprime lenders, companies that secure loans for people with poor or no credit, oftentimes African Americans and Latinos.

Circuit Court Judge Michael D. Mason provided no timeline for his decision. He originally approved the injunction on March 8, the day the law was to go into effect.

At that time Mason said the law could potentially harm the lending industry if permitted to go forth. Several lending companies temporarily pulled out of or threatened to suspend business in the county because they said the law is too vague and contains excessive fines.

"We'll await the decision of the court. I know the judge was thorough, and I'm confident in the judicial process," Perez said. "I wasn't expecting a ruling today, because this is a decision that will end up going to the state's highest court, so the judge wanted to cross all his 'T's and dot all his 'i's."

Unlike a predatory lending ordinance, the fair housing law does not



Perez

WHAT THE LAW SAYS

The County Council passed fair housing legislation in 2005. The law was scheduled to take effect March 8, but has been delayed while the court determines whether the county exceeded its authority in passing the law.

- The law is aimed at subprime lenders, companies that secure loans for people with poor or no credit.
- The law prohibits lending discrimination on the basis of race, national origin, and other characteristics.
- The law increases damages for each proven incident of discrimination from \$5,000 to \$500,000.
- The law does not specify the types of loans a company may issue a client.

specify the type of loans a company may issue a client, but does prohibit discrimination on the basis of race, national origin and other characteristics.

"It is not surprising that [Judge Mason] doesn't have a written decision yet. He said in court [July 6] that this is a complex matter and he has to take this under advisement," said Marc P. Hanson, chief attorney of the county's Division of General Counsel.

Perez, who is running for state attorney general, has repeatedly characterized the lenders' actions as unwarranted scare tactics.

Although the council originally supported the bill, Councilmen Michael J. Knapp (D-Dist. 2) of Germantown and Howard A. Denis (R-Dist. 1) of Chevy Chase, the only two members who voted against the original legislation last year, proposed repealing the law earlier this year. After a public hearing, council President George L. Leventhal (D-At large) of Takoma Park delayed a vote on the repeal until after the court's final decision.

"It's status quo for the time being," Leventhal said last week. "I don't see the council acting or making any revisions to the bill without action from the court."