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Obama, Durbin propose federal mortgage reforms

By David Jackson
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Sen. Barack Obama (D-Ill.) proposed a sweeping set of federal reforms Tuesday to combat mortgage fraud, ratcheting up enforcement and creating a national database of brokers who have been disciplined.

Obama's bill would increase funding for federal law enforcement programs, create new criminal penalties for mortgage professionals found guilty of fraud and require industry insiders to report suspicious activity.

Mortgage fraud is "robbing thousands of Americans of their dream of homeownership, and costing the mortgage industry hundreds of millions of dollars each year," Obama said. "Congress needs to come to the table and do its part."

Obama and the bill's co-sponsor, Sen. Dick Durbin (D-Ill.), said they were moved to act by a recent Tribune series on mortgage fraud, in which swindlers use high-tech identity theft and face-to-face scams to wrest control of homes, then secure hefty bank loans that go unpaid.

Illinois Atty. Gen. Lisa Madigan and state lawmakers introduced their own reforms in Springfield following the series. During the last five years, FBI reports of mortgage fraud have soared across the U.S.

A Tribune analysis of some 500 Chicago-area cases showed the scams disproportionately affect low-income neighborhoods, where they leave abandoned homes and displaced families. Drug-dealing gangs have adopted the white-collar crime, the paper found, even as lending companies found themselves enmeshed in fraud schemes.

Obama's bill would authorize \$10 million more for anti-mortgage fraud programs in the Departments of Justice and Housing and Urban Development.

It also would require the FBI to update bankers on fraudulent activity in a formal, systematic way. Today, real estate attorneys, companies and trade groups rely on several industry Web sites that use news articles and government press releases to disseminate fraud reports from across the country.

And the bill would establish a national database of mortgage professionals who have been sanctioned by state or federal regulatory agencies.

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Several features of the proposed legislation may win consensus because they previously have been embraced by real estate industry groups and law enforcement agencies.

The FBI already has called for mandatory fraud reporting by real estate industry professionals along with safe harbor from liability for those whistle-blowers. A similar system is in place in the banking industry.

Other aspects of the bill could be opposed by real estate and banking interests, experts said.

One provision of the measure would strengthen the ability of fraud victims to file federal lawsuits. Individuals now must seek redress in state courts, which have more restrictive rules about information gathered during discovery, said Peter J. Henning, a Wayne State University Law School professor.

Henning said that could increase the liability banks and real estate companies face for their employees' misconduct.

"I suspect there would be opposition to that provision," Henning said.

Others wonder whether the bill fails to cover a large population of unlicensed counselors and operators who commit fraud.

"This law won't reach people outside the mortgage lending institutions," said California attorney Rachel Dollar.

But the growing cost of mortgage fraud--lenders suffered more than \$1 billion in losses last year--has convinced many industry groups that it must be addressed somehow.

"Folks in the mortgage industry are suddenly concerned about fraud, because they're losing money too," said Ira Rheingold, executive director of the National Association of Consumer Advocates, a group of public-interest attorneys who support the legislation.

"The series in your paper about drug dealers moving into mortgage fraud is proof positive that is where criminal money is to be made," Durbin said. "Major financial institutions have to be a little embarrassed by their past. This is their chance."

Obama's proposed bill, written in consultation with the Treasury Department, Madigan and Chicago police, would authorize increased federal funding for mortgage counseling. It also would grant funding to the state agencies that license and monitor appraisers and other real estate professionals.

"We view this as a very exciting development," said Timothy Reiniger of the National Notary Association.

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