

HOME OWNERS' LOAN ACT PREEMPTS UNCONSCIONABILITY, BUT NOT FRAUD

On March 26th, the Fourth Circuit partially reinstated a homeowner's lawsuit against her mortgage lender. Count I of plaintiff's complaint claimed that her mortgage was unconscionable because the closing was hurried, the appraisal inflated, and the loan's terms unfair. Affirming dismissal, the Fourth Circuit held that the Home Owners' Loan Act preempts the claim. Dismissal of the fraud claim, however, was reversed. Count II alleged misrepresentation of the property's value to induce the mortgage, plaintiff's reasonable reliance on that misrepresentation, and harm. Because the fraud claim only incidentally affects lending, it is not preempted. Because the complaint adequately pleaded fraud, dismissal was improper. [McCauley v. Home Loan Investment Bank, F.S.B.](#)