74th OREGON LEGISLATIVE ASSEMBLY - 2007 Regular Session **MEASURE: SB 965 B**
STAFF MEASURE SUMMARY **CARRIER: Rep. Holvey**
House Committee on Consumer Protection

REVENUE: No revenue impact
FISCAL: Minimal fiscal impact, no statement issued

Action:		Do Pass as Amended and Be Printed Engrossed
Vote:		4 - 2 - 1
	Yeas:	Bonamici, Galizio, Riley, Holvey
	Nays:	Gilliam, Girod
	Exc.:	Nelson
Prepared By:		Steve Dixon, Administrator
Meeting Dates:		5/25, 5/30, 5/31

WHAT THE MEASURE DOES: Establishes standards for lenders offering, making, or servicing nontraditional home loans in Oregon. Defines nontraditional home loan as a loan secured by a mortgage that is interest-only or payment option adjustable rate, and any loan defined by the Department of Consumer and Business Services (DCBS) as nontraditional that has negative amortization or short-term introductory rates, or that permits reduced documentation. Prohibits pre-payment penalties after one year. Requires lenders who make nontraditional loans to determine a borrower's ability to repay beyond introductory rates of the loan. Covers other loan terms, underwriting standards, and risk management practices, and details consumer protection standards. Provides enforcement and penalty provisions for violation of the standards, including authority for the department to investigative, to issue cease and desist orders, to seek injunctive relief through the courts, and to assess civil penalties. Provides private right of action starting July 1, 2008 as well as lender liability for damages in the amount of ascertainable loss. Limits an action or lawsuit more than three years after origination of the loan. Declares an emergency and takes effect on passage.

ISSUES DISCUSSED:
- The effect of SB 965 B on consumers and industry.

EFFECT OF COMMITTEE AMENDMENT: Prohibits pre-payment penalties after one year. Applies statute to mortgage brokers. Delays private right of action until July 1, 2008. Modifies provisions regarding the use of automated underwriting programs to allow ones approved by Fannie Mae, Freddie Mac, the Office of Federal Housing Enterprise Oversight or (DCBS). Exempts state chartered banks and credit unions. Technical changes to language.

BACKGROUND: Nationwide, many families that were previously unable to buy or refinance their homes have been able to borrow through nontraditional, higher-cost loan products. The products include provisions such as adjustable rates, sometimes with balloon payments, and interest-only or negative amortization, sometimes with substantial pre-payment penalties. Some lenders have offered rates and terms that borrowers cannot afford over the long term. These practices, combined with leveling or falling home prices, have helped drive a significant increase in foreclosure rates. While Oregon's overall foreclosure rate is lower than the national average, the Oregon rate increased about 40 percent from 2005 to 2006.

Twenty-four states have adopted various prohibitions and restrictions on home loans as foreclosures and concerns over misleading marketing have grown. The approach in Senate Bill 965-A is to codify standards for any lender offering nontraditional loans instead of prohibiting any particular type of loan. The standards in the measure derive from joint guidelines adopted last year by the American Association of Residential Mortgage Regulators and the Conference of State Bank Supervisors, which in turn parallel multi-agency federal guidelines. Although the Oregon Department of Consumer and Business Services has issued these new guidelines for state-regulated lenders, the agency's ability to require compliance is not clear. Senate Bill 965-A codifies the guidelines as requirements for makers of nontraditional loans and provides explicit enforcement authority.