74th OREGON LEGISLATIVE ASSEMBLY - 2008 Special Session **MEASURE: HB 3603 A**
STAFF MEASURE SUMMARY **CARRIER: Rep. Holvey**
House Committee on Elections, Ethics and Rules

REVENUE: Revenue statement issued
FISCAL: Fiscal statement issued

Action:		Do Pass as Amended and Be Printed Engrossed and Rescind the Subsequent Referral to the Committee on Ways and Means
Vote:		4 - 3 - 0
	Yeas:	Buckley, Hunt, Shields, Rosenbaum
	Nays:	Berger, Esquivel, Thatcher
	Exc.:	0
Prepared By:		Marjorie Taylor, Administrator
Meeting Dates:		2/18, 2/19

WHAT THE MEASURE DOES: Authorizes a prepayment penalty for a subprime or nontraditional mortgage under certain conditions and voids prepayment penalties not meeting those same conditions. Defines “subprime mortgage” and “nontraditional mortgage,” and additional terms. Requires disclosures to be given to the borrower at the time a good faith estimate is provided. Requires lender to provide borrower with a new disclosure if amounts, rates or other information changes from previous disclosure. Provides enforcement powers to the Department of Consumer and Business Services (DCBS). Allows Director of DCBS to adopt rules to administer and enforce provisions of the measure. Establishes an operating date on certain provisions for 120 days following the measure’s effective date. Declares an emergency, effective upon passage.

ISSUES DISCUSSED:
- Provisions of the measure
- Federal proposals and potential action by the Federal Reserve
- Prepayment penalties and disclosures
- State-chartered vs. federally-chartered banks
- Definition of nontraditional mortgage
- Number and causes of foreclosures in Oregon
- People who have poor or bad credit using subprime or nontraditional loans
- Bonding for mortgage brokers

EFFECT OF COMMITTEE AMENDMENT: Replaces the bill.

BACKGROUND: House Bill 3603A establishes the “Responsible Mortgage Lending Act.” Under the measure, a prepayment penalty cannot be imposed for a full or partial repayment of principal made within two years after a subprime or nontraditional mortgage’s closing date or during a period that ends 60 days after the first scheduled adjustment of the mortgage’s interest rate, unless the mortgage is offered or originated under a federal program that requires the agreement to include a prepayment penalty. Lenders are required to disclose to a borrower the terms of a subprime or nontraditional mortgage in nontechnical language prior to the mortgage’s closing date. Required information in the disclosure includes the mortgage’s initial payment amount and annual percentage rate, the amount of the highest potential regularly scheduled mortgage payment, and the amount and timing of any rate adjustments that might occur under the mortgage agreement. If the amounts, rates, or other disclosed information change, the lender must provide the borrower with a new disclosure that shows the new amounts, rates, and applicable information; differences between the original and new amounts, rates, and information; and a statement of reasons for the changes. The new disclosure form must be delivered to the borrower at least three days before the mortgage closes.

The Director of the Department of Consumer and Business Services can also require, by rule, other information to be disclosed. The department also has authority to make private or public examinations and investigations within or outside Oregon as deemed necessary to determine whether violations have occurred or is about to occur, to enforce the measure’s provisions, or aid in the adoption of rules regarding disclosures.

House Bill 3603A applies to mortgage bankers and mortgage lenders; state banks, credit unions, and banking institutions as defined in statute; and consumer finance licensees as outlined in ORS chapter 725. It does not apply to federal banks, national banks, and their operating subsidiaries; federal credit unions and their operating subsidiaries; and financial institutions subject to exclusive regulation or supervision by a federal agency.