

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Devlin, George G., Prozanski, Winters, Westlund
Nays:	0
Exc.:	0
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	2/18, 2/20

WHAT THE MEASURE DOES: Regulates home mortgage loan foreclosure consultants and equity purchasers. Specifies provisions that must be contained in foreclosure consulting and equity conveyance contracts. Requires foreclosure consulting contracts to include full description of services to be provided, total amount and terms of compensation, and information on homeowners' right to cancel the contract. Requires foreclosure consulting contracts to be in plain language and delivered to homeowners at least 24 hours before homeowners sign. Lists specific prohibited actions, including taking power of attorney. Designates violation of foreclosure consulting or equity conveyance laws as an unlawful trade practice. Requires lenders to provide homeowners who are at risk of mortgage foreclosure with notice written in nontechnical language which outlines information on how to stop the foreclosure process. Applies to foreclosure consulting contracts beginning 90 days after enactment and to agreements for equity conveyances beginning seven or more days after enactment. Declares an emergency, effective upon passage.

ISSUES DISCUSSED:

- Whether the measure will discourage equity purchasers from continuing to offer their services
- Exemptions established under the measure regarding foreclosure consultants
- Current statutory tools used for prosecuting fraudulent activities relating to foreclosure rescue
- Examples of fraudulent activities

EFFECT OF COMMITTEE AMENDMENT: Clarifies language used in forms that contain information for canceling a foreclosure consulting contract and an equity conveyance contract. Prohibits foreclosure consultants from performing direct or implicit actions that are false, deceptive, misleading, or confusing in regards to a foreclosure consulting service, foreclosure consulting contract, or residence in foreclosure or default. Clarifies that charges for prorated taxes and homeowner association dues attributable to a period of time prior to the transfer of interest in the property by the equity seller is included within the definition of an "equity recapture payment." Exempts persons whose employment with regard to a residential property matter under jurisdiction of the U.S. Bankruptcy Court is approved by an order of the court from provisions of the measure related to equity purchasers. Clarifies that foreclosure notices must be mailed to the grantor and the property occupant (if applicable) by both first class and certified mail. Replaces the term "grantee" with "beneficiary" in provisions relating to rule making authority for the Department of Consumer and Business Services in regards to foreclosure notices.

BACKGROUND: Foreclosure is the legal process through which the lender on a mortgage loan can initiate a sale of the property when borrowers are not making required payments and are in default. The number of foreclosures is increasing nationally, a consequence of declining home values and increasing interest rates. Homeowners threatened with foreclosure, sometimes confused about the process and their options, may be contacted by foreclosure consultants who offer assistance with repayment plans, restructuring, refinancing, forbearance agreements, or equity conveyance, sometimes characterized as "mortgage rescue schemes." House Bill 3630 B regulates the activities of foreclosure consultants and equity purchasers. It also requires a trustee of a property to send a homeowner facing foreclosure with a clearly written notice at least 120 days before the sale which outlines their rights and options of avoiding foreclosure as well as a list of legal resources and other counseling services.

2/20/2008 2:00:00 PM

This summary has not been adopted or officially endorsed by action of the committee.