74th OREGON LEGISLATIVE ASSEMBLY - 2008 Special Session **MEASURE: SB 1090 A**
STAFF MEASURE SUMMARY **CARRIER:**
Senate Committee on Commerce and Labor

REVENUE: No revenue impact
FISCAL: Fiscal statement issued

Action:		Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means by Prior Reference
Vote:		3 - 2 - 0
	Yeas:	Devlin, Prozanski, Westlund
	Nays:	George G., Winters
	Exc.:	0
Prepared By:		Theresa Van Winkle, Administrator
Meeting Dates:		2/8, 2/11

WHAT THE MEASURE DOES: Requires lenders who offer or originate a subprime or nontraditional mortgage to ensure underwriting standards used to qualify a borrower for a mortgage are consistent with prudent lending practices. Outlines examples of prudent lending practices. Defines subprime mortgage and nontraditional mortgage. Requires lenders who offer or originate a subprime or nontraditional mortgage to establish and follow written policies which direct the lender, its agents, and its employees to comply with provisions of the measure relating to underwriting standards and the borrower's ability to repay a mortgage. Requires lenders to maintain records which document the lender's compliance. Prohibits a prepayment penalty to be imposed for a full or partial repayment of principal made within two years after the mortgage's closing date or during a period that ends 90 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. Prohibits lenders from interpreting or complying with the duties and standards imposed under the measure to evade duties and obligations imposed under the federal Equal Credit Opportunity Act or Fair Housing Act. Requires a good faith estimate and required disclosures to be provided to the borrower at the time a subprime or nontraditional mortgage is offered or originated. Requires lenders to disclose the costs and terms of a fixed rate mortgage that a lender also offers or originates at the lowest annual percentage rate the borrower qualifies for. Provides enforcement powers to the Department of Consumer and Business Services in addition to the ability of adopting rules to administer and enforce provisions of the measure. Increases the required bond amount for mortgage banker and mortgage broker licensees to $100,000. Requires mortgage bankers and mortgage brokers to purchase an errors and omissions insurance policy of at least $500,000 for all times during which they either conduct business in Oregon or hold a license. Establishes an operating date on certain provisions for 120 days following the measure's effective date. Declares an emergency, effective upon passage.

ISSUES DISCUSSED:
- Consequences from enacting the measure
- Pending changes to federal regulations; i.e. Federal Reserve Board
- Impact of the measure on other types of loans
- Whether the measure's provisions conflict with the federal Equal Credit Opportunity Act or the federal Fair Housing Act

EFFECT OF COMMITTEE AMENDMENT: Replaces the bill.

BACKGROUND: SB 1090 A establishes the "Responsible Home Buying Act." Under the measure, a "subprime mortgage" is defined as a mortgage whose annual percentage rate (exclusive of any discount points paid by the borrower) differs from the yield on securities of comparable maturity issued by the United States Treasury by three or more percentage points for first-lien mortgages (or in the case of mortgages secured by a manufactured dwelling, at least 3.5 percentage points) or five or more percentage points for second-lien mortgages (5.5 percentage points for a manufactured dwelling). A “nontraditional mortgage” is either an interest-only mortgage that the Department of Consumer and Business Services (DCBS) identifies via rule as a nontraditional mortgage; a payment option adjustable rate mortgage; or a mortgage identified as a nontraditional mortgage which allows for negative amortization, features an introductory interest rate, or a borrower qualifies for the loan with reduced documentation.

The measure 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. SB 1090 A 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.