

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended, Be Printed Engrossed, and Be Referred to the Committee on Rules

Vote: 3 - 2 - 0

Yeas: Bonamici, Monroe, Shields

Nays: Boquist, George

Exc.: 0

Prepared By: Patrick Brennan, Administrator

Meeting Dates: 3/21, 3/23, 4/20

WHAT THE MEASURE DOES: Permits a grantor to record an affidavit stating that the grantor requested a loan modification in accordance with law and by applicable deadlines. Stipulates that failure to include the required notification form with notice of sale, failure to comply with provisions governing loan modifications and failure to record a required affidavit of compliance with loan modification requirements are unlawful practices subject to enforcement under unlawful trade practices law. Specifies that trustees must send copies of the required affidavit to the Department of Justice. Eliminates specified exceptions from compliance requirements for mortgage loan modifications. Requires trustees to be residents of Oregon or have registered agents that meet specified qualifications. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Current loan modification process
- Consumer complaints to Department of Justice

EFFECT OF COMMITTEE AMENDMENT: Specifies that the trustee is to file the affidavit after complying with ORS 86.737 and section 3(1) and (2) of chapter 864, Oregon Laws 2009. Revises the requirements the Department of Consumer and Business Services must include in rulemaking for the affidavit.

BACKGROUND: Foreclosure is the legal process by which a lender on a mortgage loan can initiate the sale of a property when the borrower defaults on the loan by failing to make the required payments. The number of foreclosures has increased dramatically nationwide during the past several years, due primarily to declining home values, increased interest rates and high unemployment. Recent legislation in Oregon has sought to assist homeowners to avoid the foreclosure process by requiring lenders to provide written notice of the borrower's rights and options at least 120 days before a trustee sale (House Bill 3630, 2008); federal legislation has also sought to help homeowners modify their loans to allow them to make payments and remain in their homes.