

REVENUE:

FISCAL:

SUBSEQUENT REFERRAL TO:

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: James LaBar, Administrator

Meeting Dates: 3/18, 4/20

WHAT THE MEASURE DOES: Requires mortgage loan servicers to obtain license or endorsement and requires other persons that engage in business as mortgage loan servicers to obtain endorsement. Specifies considerations Director of Department of Consumer and Business Services may use in deciding whether to issue license or endorsement. Requires applicant for license or endorsement to file corporate surety bond or irrevocable letter of credit with, and to provide proof of financial responsibility to, director and to notify director of certain changes to mortgage loan servicer's operations or governance. Subjects mortgage loan servicer's books and records to director's examination or examination that Conference of State Bank Supervisors conducts. Permits director to take temporary possession and control of, or to direct sale of, mortgage loan servicer's assets in certain circumstances. Requires mortgage loan servicer to maintain escrow account for funds from borrowers in this state and directs mortgage loan servicer to segregate funds in escrow account from all of mortgage loan servicer's other funds. Prohibits certain practices and otherwise subjects mortgage loan servicers to regulations of similar nature and extent as regulations to which mortgage bankers and mortgage brokers are subject. Establishes exemptions for chartered banks and credit unions and an endorsement process for other financial institutions licensed by the department. Becomes operative January 1, 2016. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT:

(-1 amendment) Eliminates the ability to take possession of property and affairs of a mortgage loan servicer, and replaces with an ability to go to court and ask for the appointment of a receiver. Modifies trustee reference.

(-2 amendment) Defines persons holding a consumer finance license under Chapter 725 or a mortgage broker or broker license under Chapter 86A as not a mortgage loan servicer.

(-3 amendment) Provides exemption for mortgage servicer that services loan for a period of not more than 90 days or until the person sells the mortgage loan. Creates exemption for mortgage loan servicer who services not more than 100 of the mortgage loans the person originates. Removes exemption for licensure an applicant who not subject to ORS 86A.227 to file a corporate surety bond or irrevocable letter of credit that is approved by director. Provides flexibility to director to adjust the amount of corporate surety bond for licensure. Eliminates the ability to take possession of property and affairs of a mortgage loan servicer, and replaces with an ability to go to court and ask for the appointment of a receiver. Modifies trustee reference.

(-4 amendment) Exempts Oregon Department of Veterans Affairs (and state agencies and federal agencies) from the definition of "mortgage loan servicer."

BACKGROUND: When a person borrows large sums for a home, the lender that provides the financing typically assigns the administrative duties of collecting and administering payments, releasing liens, and paying incidental charges to a third party known as a loan servicer. The troubles in the national mortgage market

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

highlighted problems associated with loan servicing, which continue to create difficulties around the nation. In 2012, states negotiated a \$25 billion settlement (the Oregon Department of Justice was a party) with national loan servicers to address many borrower issues. However, the settlement did not involve nonbank servicers, which have increasingly obtained large portfolios of loans from banks selling them to raise capital. The concentration of loans with nonbank entities raises concerns as to whether these businesses can operate in a financially sound manner and if consumers may be able to address unlawful servicing practices. Furthermore, if a loan servicer fails, the disruptions to the secondary market (where loans are bought, securitized, and sold) are significant. In 2014, the state of New York blocked such a portfolio sale to a national loan servicer, Nationstar, citing “capacity issues.”

There is growing concern among state regulators that nonbank servicing must be examined for business acumen and compliance with consumer protection standards. 28 states currently regulate servicing of mortgage loans. In 2014, a council of federal banking agencies recommended that states work together on prudential and corporate governance standards for servicers. As for Oregon, the Department of Consumer and Business Services (DCBS) has very limited statutory authority to regulate loan servicing by nonbank entities. The Attorney General can set loan servicing standards as unlawful trade practices under the Unlawful Trade Practices Act, with approval of the Department.