

SB 968 STAFF MEASURE SUMMARY

Senate Committee On Business and Transportation

Prepared By: Patrick Brennan, LPRO Analyst

Meeting Dates: 4/5

WHAT THE MEASURE DOES:

Modifies the requirement for a trustee to foreclose a trust deed by advertisement and sale. Revises definition of "beneficiary." Declares recorded trustee's deed to be prima facie evidence that all assignments required to be recorded are recorded. Declares instrument executed by a beneficiary as prima facie evidence that the beneficiary is authorized to execute the instrument. Permits a beneficiary to designate an agent or nominee to act on their behalf. Declares emergency, effective on passage.

FISCAL:

REVENUE:

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A deed of trust is a document that specifies the terms of of a transaction involving real property. The document outlines the original loan amount, legal description of the property being used as security for the mortgage, parties to the transaction, the inception and maturity date of the loan, provisions of the mortgage, late fees, legal procedures, acceleration and alienation clauses, and information on any riders (such as prepayment penalties or terms of an adjustable rate mortgage). A deed of trust contains three parties: the trustor, who is the borrower; the trustee, which is the entity that holds bare or legal title; and the beneficiary, which is the lender in the transaction.