

HB 2009 -1, -2, -3, -5 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Jan Nordlund, LPRO Analyst

Meeting Dates: 3/3, 3/24

WHAT THE MEASURE DOES:

Prohibits lender from foreclosing on a subject property during the emergency period. Provides exceptions to foreclosure moratorium.

Requires lender to defer from collecting payments if lender and borrower cannot agree to a foreclosure avoidance measure. Requires lender to allow borrower to make the deferred payments at the loan's scheduled end. Prohibits borrower from imposing charges, fees, default rate of interest, or otherwise treat the borrower's missed payments as a default during the emergency period.

Requires borrower, if they wish to receive protections offered by this Act, to notify lender that the borrower cannot make payments. Requires lender to notify borrower who cannot make a payment that borrower may be entitled to relief under this Act.

Stays during the emergency period any foreclosure of subject property that was initiated on or after March 8, 2020.

Provides private right of action to borrower who suffers a loss because lender violated these provisions.

Applies to borrowers who own no more than five subject properties. Defines a subject property as having no more than four improvements meant for residential use.

Establishes emergency period as December 31, 2020, to September 1, 2021, unless extended by Governor to December 31, 2021.

For 2021 and 2022, requires lender to participate in Foreclosure Avoidance Program unless they commenced 30 or fewer foreclosures in 2019. In 2023 and years thereafter, requires lender to participate in the program unless they commenced 30 or fewer foreclosures in the prior calendar year.

Allows participants in Foreclosure Avoidance Program to participate by means of remote audio or video communication.

Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 (Rep. Nosse) Applies provisions to borrowers with up to 10 subject properties.

-2 (Rep Nosse) Modifies definitions so that protections also apply to commercial properties and to unlimited number of subject properties. Defines subject property as real property located in this state and personal property that is used as a residence in this state.

-3 (Committee amendment) Modifies definition of "borrower" to clarify that borrower directly, or indirectly through an entity, owns not more than five subject properties. Modifies definition of "subject property" to clarify that it is real property upon which are situated no more than four dwelling units used primarily and designed

HB 2009 -1, -2, -3, -5 STAFF MEASURE SUMMARY

solely for residential use. Modifies definition of "emergency period" to end on June 30, 2021, with allowance for Governor to extend twice in three month increments, which aligns with federal foreclosure protection timelines. Clarifies that borrower from notice must indicate that payments are missed because of a loss of income that is related to COVID-19 pandemic. Allows foreclosures during the emergency period that dispose of vacant or abandoned property. Clarifies that beneficiary qualifies for exemption from Oregon Foreclosure Avoidance Program in 2021 and 2022 if number of foreclosures commenced in 2019 did not exceed 30.

-5 (Rep. Bonham at request of OBA) Removes provisions regarding payment deferral. Modifies definition of emergency period to be the period extending from effective date of this Act to June 30, 2021. Defines a subject property to clarify that it is real property upon which are situated no more than four dwelling units used primarily and designed solely for residential use. Stays during the emergency period the foreclosure of subject property initiated on or after June 30, 2020. Exempts from foreclosure moratorium requirement any federally backed mortgage or any loan made or serviced in accordance with federal forbearance programs. Establishes that the foreclosure moratorium requirements do not affect the rights and obligations of a lender, issuer, servicer, or trustee of a mortgage loan. Establishes exemption from Oregon Foreclosure Avoidance Program to be 175 foreclosures commenced in prior year, beginning January 1, 2023. Requires Oregon Housing and Community Services Department to apply at earliest possible date for maximum allowed for Oregon from the federal Homeowner Assistance Fund. Requires Department to consult specified entities to develop methods for informing eligible borrowers of existence of financial assistance, and to develop method for disbursing funds to the eligible borrowers. Requires Department to report to legislative committee within 30 days of effective date and every successive 45-day period until January 1, 2023, as to its progress implementing these provisions.

BACKGROUND:

During the First Special Session of 2020, the Legislative Assembly passed HB 4204 to provide temporary payment deferral and protection from foreclosure for residential and commercial borrowers through September 30, 2020. Governor Brown's Executive Order 20-37 extended the protections through December 31, 2020. Legislators, and the public, discussed the desire to protect people from losing their home during a public health crisis and to provide relief to homeowners while the economy responded to the pandemic, in general, and Governor Brown's restrictions on business and school operations.

House Bill 2009 reinstates temporary mortgage payment deferral and protection from foreclosure to borrowers who own no more than five properties that each include no more than four residential improvements. These protections will apply through September 1, 2021, with an allowance for the Governor to extend through December 31, 2021. The measure also changes the threshold for a lender to be exempt from participating in the Foreclosure Avoidance Program. Currently, if a lender commenced no more than 175 foreclosures in the prior calendar year, they will be exempt for the current year. House Bill 2009 drops the threshold to 30 foreclosures, making it more difficult to qualify for an exemption. For this year and 2022, an exemption will be allowed if no more than 30 foreclosures were commenced in 2019.