

HB 2009 A -A12 STAFF MEASURE SUMMARY

Senate Committee On Housing and Development

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Meeting Dates: 4/15, 5/6

WHAT THE MEASURE DOES:

Renews temporary mortgage payment deferral and foreclosure protections for certain borrowers. Applies protections through end of emergency period on June 30, 2021 and allows Governor to extend emergency period twice in three-month increments. Prevents lenders from defaulting borrowers for nonpayment during emergency period if borrower notifies lender of lost income from COVID-19 during period. Stays foreclosures initiated during emergency period. Exempts lenders from participating in Oregon Foreclosure Avoidance Program. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- State and federal jurisdiction to regulate mortgage contracts and foreclosure law
- Commercial lending
- Interest rates
- Banking sector profit margins
- Federal capitalization requirements
- Percent of mortgages retained or sold to secondary market
- Manufactured home mortgages

EFFECT OF AMENDMENT:

-A12 Allows borrower to be disqualified from negotiating and agreeing to foreclosure avoidance measure if borrower fails to provide information on hardship or reduction in income that caused failure to pay. Includes references to trustees to accompany references to lenders where appropriate. Replaces certain references to deferral with references to forbearance in notice from lenders to borrowers informing them of relief options, including correction to relief deadline and forbearance relief eligibility from CARES Act. Adds references to forfeitures of land sale contracts to conditions that certain provisions of measure do not apply to.

BACKGROUND:

Legislation enacted during the First Special Session of 2020 (House Bill 4204) provided temporary payment deferral and protection from foreclosure for residential and commercial borrowers through September 30, 2020. Governor Brown extended the protections through December 31, 2020, through Executive Order 20-37. The legislation was intended to protect people from losing their home during a public health crisis and to provide relief to residential and commercial borrowers while the economy responded to the pandemic. Federally backed mortgages are currently protected under a federal foreclosure moratorium and payment forbearance program. It is estimated that federally backed mortgages account for 70 percent of all mortgages. The U.S. Census Bureau's Pulse Survey for March 3-15 indicates that approximately 65,000 Oregon households are behind on their mortgage payments.

House Bill 2009 A renews the temporary mortgage payment deferral and protections from foreclosure to borrowers who directly or indirectly own no more than five properties that each include four or fewer dwelling units for residential use. Protections will apply through the end of the emergency period, June 30, 2021; the Governor may extend the emergency period expiration twice in three-month increments. During the emergency period, lenders will not be able to default borrowers for not making mortgage payments if, during the emergency period, the borrower notifies the lender of lost income from the COVID-19 pandemic. Any foreclosures initiated

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during the emergency period will be stayed. The measure also changes the threshold to exempt a lender from participating in the Oregon Foreclosure Avoidance Program. Currently, the exemption applies if a lender commenced no more than 175 foreclosures in the prior calendar year. House Bill 2009 A lowers the threshold in 2021 and 2022 to 30 foreclosures commenced in 2019; in 2023 and subsequent years the threshold will be 30 foreclosures commenced in the prior year.

PRELIMINARY