# HOUSE BILL REPORT
# SSB 6711

**As Reported by House Committee On:**
Insurance, Financial Services & Consumer Protection

**Title:** An act relating to preventing foreclosures by creating the smart homeownership choices program.

**Brief Description:** Creating the smart homeownership choices program.

**Sponsors:** Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Kauffman, Kilmer, Kohl-Welles, Keiser and Kline).

**Brief History:**
**Committee Activity:**
Insurance, Financial Services & Consumer Protection: 2/26/08 [DP].

**Brief Summary of Substitute Bill**

- Creates an account to be used to assist low-income and moderate-income households facing foreclosure.
- Requires a homeowner that receives financial assistance to participate in a mortgage counseling program and to repay the assistance at the time of refinancing into a different loan product.

**HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION**

**Majority Report:** Do pass. Signed by 5 members: Representatives Kirby, Chair; Kelley, Vice Chair; Loomis, Santos and Simpson.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Roach, Ranking Minority Member; Rodne and Smith.

**Staff:** Jon Hedegard (786-7127).

**Background:**

Regulation of Financial Institutions and Mortgage Brokers.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Financial institutions are regulated in accordance with their charters. A financial institution may be chartered in Washington, a different state, or the federal government. An institution that is chartered in Washington is subject to the regulatory authority of the Department of Financial Institutions (DFI). The DFI also licenses mortgage brokers and loan originators under the Mortgage Broker Practices Act (MBPA). The MBPA has provisions regarding licensing, continuing education, prohibited practices, examinations, investigations, and criminal, civil, and administrative penalties.

Foreclosure on Mortgages and Deeds of Trust.
Mortgages and deeds of trust are two forms of security interest in real property used for real estate financing. A mortgage is a pledge of real property as security for a debt owed to the debtor. A mortgage creates a lien on the real property. A mortgage may be foreclosed only through a judicial proceeding according to detailed statutory requirements and procedures. A deed of trust is, in essence, a three-party mortgage. The borrower grants a deed creating a lien on the real property to a third-party (the trustee) who holds the deed in trust as security for an obligation due to the lender. The deed of trust transfers title to the borrower, yet the trustee has a lien against the property until the borrower pays off the obligation in full. If the borrower defaults on the obligation, a deed of trust may be foreclosed without a judicial proceeding. The trustee may foreclose on the property by conducting a public trustee sale when the required procedural and notice requirements are met. The trustee must provide notice to the borrower 30 days prior to the recording of a notice of sale. At least 90 days prior to a sale, the trustee must record a notice of sale in the office of the auditor in the county where the property is located.

In September 2007 Governor Gregoire established the Task Force for Homeowner Security (Task Force) to evaluate instability in the mortgage market and minimize the impact in Washington. The Task Force met six times between September and mid-December and issued a report on December 21, 2007. The report included approximately 24 recommendations. One recommendation was to provide grants or loans to assist qualifying low-income and moderate-income homeowners who are delinquent on their mortgage payments. If these homeowners could make past due payments, they could be eligible to refinance into a different loan product.

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**Summary of Bill:**

"Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 80 percent of the median family income adjusted for family size, for the county where the project is located.

"Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than 80 percent, but is at or below 115 percent of the median family income adjusted for family size, for the county where the project is located.

The county median family income is reported by the United States Department of Housing and Urban Development. For cities located in high-cost areas:

- "low-income household" means a household that has an income at or below100 percent of the median family income adjusted for family size, for the county where the project is located; and
- "moderate-income household" means a household that has an income that is more than 100 percent, but at or below 150 percent, of the median family income adjusted for family size, for the county where the project is located.

"High cost area" means a county where the third quarter median house price for the previous year as reported by the Washington Center for Real Estate Research at Washington State University is equal to or greater than 130 percent of the statewide median house price published during the same time period.

The Smart Homeownership Choices Program (Program) is created to assist low-income and moderate-income households facing foreclosure.

The DFI must enter into an interagency agreement with the Washington State Housing Finance Commission (Commission) to fund the Program with moneys from the Smart Homeownership Choices Program Account (Account). The Account is created in the custody of the State Treasurer. All receipts from an appropriation and any funds from private contributions that are specifically designated for the Program must be deposited into the Account. The Commission may request funds from the DFI as needed to implement and operate the Program. Expenditures from the Account may be used solely for the purpose of preventing foreclosures through the Program. Only the Director of the DFI or the Director's designee may authorize expenditures from the Account.

The Commission must assist homeowners who are delinquent on their mortgage payments and bring their mortgage payments current so the homeowners can refinance into different loan products. The Commission must determine the terms and conditions of the assistance. Financial assistance received by homeowners must be repaid at the time of refinancing into a different loan product. Homeowners receiving financial assistance must agree to participate in a residential mortgage counseling program.

State appropriated general funds in the Account may only be used to serve low-income households. Contributions from private and other sources to the Account may be used to serve both low-income and moderate-income households. Funds may also be used for activities to raise awareness of the Program. Not more than 4 percent of the total appropriation for the Program may be used for administrative expenses of the DFI and the Commission.

The Commission must provide an annual report to the Legislature at the end of each fiscal year. The report must include information regarding:
- the total number of households seeking help to resolve mortgage delinquency;
- the number of program participants that successfully avoided foreclosure; and
- the number of program participants who refinanced a home, including information on the terms of both the new loan and the loan that was refinanced.

The Commission must also establish and report upon measures to gauge Program efficiency and effectiveness and customer satisfaction.

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**Appropriation:** The sum of $250,000.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) This is one of the recommendations of the Governor's Task Force. It is a partner to the homeowner counseling bill that was adopted. This Program allows for the possibility of private funds. The appropriation itself can be used to help many people. Private contributions can expand the Program. The loans made under this Program will be repaid and the funds can be used again to make a loan to another homeowner. This bill is needed and will help people.

This bill provides a small amount of money to help people who may otherwise face foreclosure. Often homeowners are able to refinance their loans. If they are delinquent, lenders may not offer that option. Once a person is more than 60 days delinquent, a lender does not want to refinance that person. This bill will allow for small-dollar loans to a homeowner before the homeowner becomes 60 days delinquent in payments. The homeowner can become current on their mortgage and refinance into a better loan. This bill works well with the other bills on homeowner counseling. These loans will not be made unless there is an assurance that the loan will be repaid. That would be a condition of any loan. There may be some level of risk but the loan will not be made unless it is very likely to be repaid. The loans would probably range from around $5,000 to $10,000. This small amount can be all that is needed to allow people to keep their homes. While credit is not as available as it was, there are still refinancing options for homeowners. Federal reforms may allow for more options. Several private mortgage lenders have indicated support for a program like this. Lenders do not want to foreclose. Lenders want an alternative to foreclosing on a home. Any loan would have a provision requiring repayment as part of any refinancing or sale. It may be paid at once or in installments. The loan could require a lien as security.

(Opposed) None.

**Persons Testifying:** Senator Kauffman, prime sponsor; and Kim Herman, Housing Finance Commission.

**Persons Signed In To Testify But Not Testifying:** None.