SENATE BILL REPORT
HB 1826

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, March 25, 2009

Title: An act relating to the proceeds from foreclosure sales.

Brief Description: Addressing the proceeds from foreclosure sales.

Sponsors: Representatives Rodne, Pedersen and Santos.

Brief History: Passed House: 3/03/09, 96-0.
Committee Activity: Financial Institutions, Housing & Insurance: 3/17/09, 3/25/09 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.
Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, McDermott, Parlette and Schoesler.

Staff: Diane Smith (786-7410)

Background: 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 lender (mortgagee). A mortgage creates a lien on the real property. A deed of trust is basically a three-party mortgage. The borrower (grantor) 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 beneficiary).

When a mortgage is foreclosed, a statute provides that any surplus proceeds from the sale that remain after the mortgage obligation has been paid must be disbursed to the mortgage debtor. In contrast, the Deed of Trust Act provides a process for junior liens or interests in the property to attach to the surplus proceeds that remain after the expenses of the sale and the deed of trust obligation are paid. Surplus proceeds are deposited with the clerk of the court and may be disbursed upon court order.

Summary of Bill: Any surplus proceeds of a mortgage foreclosure sale that remain after the mortgage obligation has been paid must be applied to all other interests in, or liens or claims against, the property in the order of priority that the interest, lien, or claim is attached to the property. Any remaining surplus must be paid to the mortgage debtor.

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.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The statute was last amended in 1881. This bill closes a major loophole in the law, lowers litigation costs, and lowers the total debt of the borrower.

Persons Testifying: PRO: Brian Sommer, citizen.