

SENATE BILL REPORT

2SHB 2623

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 23, 2010

Title: An act relating to the foreclosure of residential real property.

Brief Description: Reviewing the foreclosure of residential real property.

Sponsors: House Committee on General Government Appropriations (originally sponsored by Representatives Orwall, Miloscia, Darneille, Kirby, Sullivan, Pettigrew, Simpson, Rolfes and Hasegawa).

Brief History: Passed House: 2/12/10, 97-0.

Committee Activity: Financial Institutions, Housing & Insurance: 2/23/10 [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: Alison Mendiola (786-7483)

Background: Deeds of trust, which are essentially a type of mortgage, may be foreclosed nonjudicially if the borrower defaults on the loan obligation. A notice of default must be provided to the borrower at least 30 days before the Notice of Sale is recorded in the county auditor's office. A borrower must receive notice of the foreclosure sale 90 days before the date of the sale. The foreclosure sale may not take place less than 190 days from the date of default.

Last year, the Legislature enacted ESB 5810, which added a requirement for deeds of trust made from January 1, 2003, to December 31, 2007, on owner-occupied residential property. A beneficiary cannot issue a notice of default until 30 days after the beneficiary contacts the borrower to explore options for the borrower to avoid foreclosure. During this initial contact, the beneficiary must, among other things, give the borrower contact information for a U.S. Department of Housing and Urban Development (HUD)-certified counseling agency and other places that might be able to assist the borrower. This initial contact requirement expires on December 31, 2012.

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.

Summary of Bill: Washington State Housing Finance Commission (Commission) must conduct a review of the effectiveness of the meet and confer requirement and examine whether it has resulted in an increase in the number of loan modifications and whether additional statutory provisions, such as mandatory mediation, are necessary to produce effective communication between lenders and borrowers.

The Commission must report its findings and recommendations to the Legislature by November 30, 2010.

Appropriation: None.

Fiscal Note: Available.

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: Foreclosure impacts many areas in Washington, the foreclosure rates has increased 70 percent from last year. Homes are a persons most valuable asset; keeping people in their homes will help people get through this recession. Pierce County has the highest foreclosure rates, followed by Snohomish and South King County. Expanding the number of housing counselors is helpful as homeowners have a higher success rate in getting their loans modified when they have the assistance they need. The bill as introduced is supported, but this version is supported as well. It will be helpful to have information about the meet and confer requirements of ESB 5810. Banks support and look forward to a cooperative effort in conducting the study. In addition to any statutory provisions, hopefully we can work together more cooperatively outside of the Legislative arena.

OTHER: While the concept of the study is supported, the meet and confer requirements are effective and could be more effective. The current wave of foreclosures is highly impacted by unemployment, which is a natural response in an economic turndown.

Persons Testifying: PRO: Representative Orwall, prime sponsor; Kim Herman, Washington State Housing Finance Commission; Yuh-line Niou, Statewide Poverty Action Network; Denny Eliason, Washington Bankers Association.

OTHER: Brad Tower, Community Bankers.