
HOUSE BILL 3214

State of Washington 61st Legislature 2010 1st Special Session
By Representative Hudgins

1 AN ACT Relating to creating an alternative to foreclosure based on
2 shared appreciation; adding a new section to chapter 61.24 RCW; adding
3 a new section to chapter 82.45 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature declares the following:

6 (1) Due to the recent economic crisis and the bursting of the
7 housing bubble, many homeowners find themselves in houses that are
8 worth less than their mortgages. The number of foreclosures in
9 Washington has increased dramatically and will likely continue to
10 increase for the next few years.

11 (2) Houses are worth more if they are kept or sold by their owners
12 than if they were foreclosed. When a bank forecloses on a house, the
13 house typically loses a great deal of value, as much as thirty percent
14 to fifty percent, not including the loss that the house has already
15 suffered because of the general economic downturn. Foreclosure can be
16 a time-consuming process, and empty houses are often difficult to
17 maintain. One badly maintained house can bring down the value of the
18 houses around it, leading to more homeowners having houses that are
19 worth less than the mortgages.

1 (3) The legislature intends to create incentives for lenders to
2 renegotiate loans for borrowers who have negative equity but who have
3 the ability to pay a lower mortgage that reflects the actual value of
4 the house.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 61.24 RCW
6 to read as follows:

7 (1) For the purposes of this section, a shared appreciation loan
8 modification allows a borrower on a deed of trust for owner-occupied
9 residential real property who resides in a zip code zone where home
10 prices have dropped by at least twenty percent to have his or her loan
11 renegotiated to reflect the current market value of the home in
12 exchange for the beneficiary receiving up to fifty percent of the
13 future appreciation of the home. The future appreciation of the home
14 is determined by the price index of the home's zip code, as provided
15 under subsection (4) of this section. The modified loan amount under
16 the shared appreciation loan modification is equal to the previous loan
17 amount discounted by the percentage decline of the median house price
18 for the zip code. All other terms of the modified loan are not
19 changed, unless otherwise agreed by the parties.

20 (2) At least thirty days before the recording of a notice of sale
21 pursuant to RCW 61.24.040, a beneficiary must inform the borrower of
22 the option for a shared appreciation loan modification if:

23 (a) The property that is subject to a foreclosure sale is located
24 within a zip code zone in which the median house price has dropped by
25 at least twenty percent, as designated under subsection (4) of this
26 section;

27 (b) The debt under the borrower's current deed of trust on the
28 owner-occupied residential real property is greater than the real
29 property's market value; and

30 (c) The deed of trust is secured by the residential real property.

31 (3) If the borrower requests a shared appreciation loan
32 modification, the beneficiary must contact the borrower within thirty
33 days of the borrower's request and review with the borrower the
34 beneficiary's decision whether or not to enter into a shared
35 appreciation loan modification. Failure of the beneficiary to contact
36 the borrower under this subsection is a defense to any foreclosure.

1 (4)(a) Within twelve months after the effective date of this act,
2 the Washington state housing finance commission must create a statewide
3 list of zip codes where the median house price has dropped by at least
4 twenty percent from the peak prices of houses in that zip code. For
5 each zip code, the commission must provide median house prices starting
6 at the peak price and must update the list as often as practical.

7 (b) For the purpose of determining the future appreciation price of
8 the home, the house price index at the zip code level, as determined by
9 the commission's list, is the future appreciation price of the home as
10 of the date the borrower sells the home.

11 (5) A shared appreciation loan modification under this section is
12 not a sale or transfer for the purpose of the real estate excise tax
13 under chapter 82.45 RCW when the borrower on the shared appreciation
14 loan modification is the same borrower on the previous loan being
15 modified.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.45 RCW
17 to read as follows:

18 A shared appreciation loan modification under section 2 of this act
19 is not a sale or transfer for the purpose of the real estate excise tax
20 when the borrower on the shared appreciation loan modification is the
21 same borrower on the previous loan being modified.

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