
Judiciary Committee

HB 2614

Title: An act relating to residual debts following short sales of owner-occupied residential property secured by deeds of trust.

Brief Description: Limiting deficiency judgments pertaining to residual debts following short sales of owner-occupied residential property secured by deeds of trust.

Sponsors: Representatives Kenney, Ryu, Hasegawa and Santos.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Prohibits a beneficiary from obtaining a deficiency judgment, under certain circumstances, when there has been a short sale of residential real property secured by a deed of trust.
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Hearing Date: 1/26/12

Staff: Trudes Tango (786-7384).

Background:

In Washington, most loan obligations for residential real property are secured by deeds of trust. Under the Deeds of Trust Act, a beneficiary may use the non-judicial foreclosure process when a borrower defaults on the loan obligation. When there is a non-judicial foreclosure sale of residential real property under the Deeds of Trust Act, the beneficiary may not obtain a deficiency judgment.

A "short sale" is a real estate transaction in which the proceeds of the sale are insufficient to pay the debts encumbering the property and the borrower is unable to pay the difference. Selling the property in a short sale can be one option for the borrower to avoid foreclosure. Generally, a beneficiary with a security interest in the property must consent to receiving less than the beneficiary is owed in return for releasing its lien on the property. Depending on the terms of the

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agreement between the borrower and the beneficiary, the borrower may or may not be liable for the remaining amounts owed that are not covered by the sale.

Summary of Bill:

A beneficiary may not obtain a deficiency judgment on the obligations secured by a deed of trust against a borrower in any case when, as a consequence of or in conjunction with a sale of owner-occupied residential real property resulting in proceeds that were insufficient to pay the obligation in full: (1) the beneficiary reports to the Internal Revenue Service that the beneficiary has canceled all or a portion of the borrower's debt; or (2) the sale was in accordance with the written consent of the beneficiary.

Appropriation: None.

Fiscal Note: Not requested.

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