

SENATE BILL REPORT

SB 5810

As of January 29, 2012

Title: An act relating to residential mortgage loan servicers.

Brief Description: Concerning residential mortgage loan servicers.

Sponsors: Senators Kline, Keiser, Conway and Kohl-Welles.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/24/12.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Alison Mendiola (786-7483)

Background: Under the Mortgage Loan Servicing Act, a purchasing service agent is any person who purchases, receives through transfer or assignment, or otherwise acquires the responsibility of servicing a loan for an owner-occupied residence.

If the loan being serviced is subject to sale, transfer, or assignment, the loan servicer is to provide the borrower with certain information regarding that loan. If a borrower requests information, a written response must include the telephone number of the company division that can assist the borrower.

A person injured by a violation of this act may bring an action for damages and reasonable attorneys' fees and costs incurred in bringing the action.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Servicing a mortgage loan means on behalf of the lender or investor of a residential mortgage loan: (1) collecting or receiving payments on existing obligations due and owing to the lender or investor, including payments of principal, interest, escrow amounts, and other amounts due; (2) collecting fees due to the servicer; (3) working with the borrower and the licensed lender or servicer to collect data and make decisions necessary to modify certain terms of those obligations either temporarily or permanently; or (4) otherwise finalizing collection through the foreclosure process.

Additionally, loan servicers are to:

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- comply with the requirements of loan servicers under RCW 31.04.290;
- at the borrower's request, provide a direct phone number of the servicer representative who serves as the main point of contact for the borrower with the information and authority to answer questions and resolve disputes;
- maintain the resources necessary to provide the servicer the opportunity to engage in effective loss mitigation;
- disclose to the primary lender when the servicer or its affiliates owns a subsequent lien;
- foreclose in the servicer's own name or that of the lender; and
- provide the borrower with a complete chain of title and note transfer history in the notice of default.

A violation of this chapter is a per se violation of the Consumer Protect Act.

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: This will provide transparency to the borrower as many experiencing problems in trying to figure out who the servicer is, how to reach the servicer, and who really owns the title to the property in question.

CON: There is a foreclosure stakeholder workgroup that has logged in over 50 complaints addressing foreclosure issues in stakeholder meetings. The changes proposed by this bill are dramatic as compared to the Foreclosure Fairness Act legislation. This bill would be a step backwards, lead to more litigation, complication and delay. The feds are already addressing many of the issues raised.

OTHER: Collecting interest is a crime.

Persons Testifying: PRO : Senator Kline, prime sponsor.

CON: Denny Eliason, United Financial Lobby and WA Bankers Assn.; Holly Chisa, United Trustees Assn.

OTHER: Yoshe Revelle, citizen.