

# SENATE BILL REPORT

## SB 6337

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As Reported by Senate Committee On:  
Financial Institutions, Housing & Insurance, January 31, 2012

**Title:** An act relating to protecting short sale sellers from payment of forgiven home loan debt if such debt forgiveness is reported to the internal revenue service.

**Brief Description:** Protecting short sale sellers from payment of forgiven home loan debt if such debt forgiveness is reported to the internal revenue service.

**Sponsors:** Senators Frockt, Fain, Haugen and Litzow.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Insurance: 1/24/12, 1/31/12 [DPS].

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Majority Report:** That Substitute Senate Bill No. 6337 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton, Ranking Minority Member; Fain, Haugen, Keiser and Litzow.

**Staff:** Alison Mendiola (786-7483)

**Background:** A short sale occurs when a seller sells a home for less than is owed and the beneficiary approves of selling the property at a loss. Short sales can occur for a variety of reasons, such as financial hardship of the seller combined with the inability to sell the property for at least as much as is owed to the beneficiary.

Beneficiaries are not required to accept a seller's offer for a short sale but there can be instances where a short sale is more beneficial than other alternatives, such as the risk of foreclosure.

**Summary of Bill (Recommended Substitute):** If a beneficiary accepts a seller's written offer for a short sale of owner-occupied residential real property and the beneficiary reports this to the Internal Revenue Service by filing a Form 1099 or otherwise, then the beneficiary or the assignee of the beneficiary may not bring an action or otherwise seek payment from the seller for the amount previously owed.

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*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.*

If a beneficiary releases its collateral interest in a residential real property so that a short sale can close, that beneficiary still controls whether or not it retains the right to collect on the entire debt from the seller.

**EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute):** The scope of the bill is narrowed to owner-occupied residential real property. Also, it is clarified that if a beneficiary releases its collateral interest in a residential real property so that a short sale can close, that beneficiary still controls whether or not it retains the right to collect on the entire debt from the seller.

**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 on Original Bill:** PRO: Short sales are a complicated process. The purpose of this bill is to clarify that if the beneficiary writes off debt from the short sale, they can't then subsequently collect this debt from the seller. This language is modeled off of an Oregon statute that passed last year.

CON: Community banks primarily lend for small business with a Home Equity Line of Credit and they need to pursue deficiencies; the second mortgages would not be used for improvement; it could raise the cost of credit if they can't pursue the deficiency.

OTHER: This will add some complications to a complicated process- rarely would a beneficiary seek a deficiency where they write off debt. One clarification: limit the application of this bill to residential properties that are owner-occupied.

**Persons Testifying:** PRO: Senator Frockt, prime sponsor; Bill Clarke, WA Realtors.

CON: Brad tower, Community Bankers of WA.

OTHER: Denny Eliason, WA Bankers Assn.