



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4453 (Substitute S-1 as reported)
House Bill 4454 (Substitute S-1 as reported)
House Bill 4455 (Substitute S-1 as reported)
Sponsor: Representative Shanelle Jackson (H.B. 4453)
Representative Andy Coulouris (H.B. 4454)
Representative Bert Johnson (H.B. 4455)
House Committee: Banking and Financial Services
Senate Committee: Banking and Financial Institutions

CONTENT

The bills would amend Chapter 32 (Foreclosure of Mortgages by Advertisement) of the Revised Judicature Act to establish procedures under which a borrower would have to be given an opportunity to work out a modification of a mortgage loan on a principal residence before foreclosure proceedings could be commenced. The sections proposed by House Bills 4454 (S-1) and 4455 (S-1) would be repealed two years after the effective date of House Bill 4455 (S-1).

House Bill 4453 (H-1) would prohibit a party from commencing foreclosure proceedings under Chapter 32 if the prescribed procedures had not been followed or the applicable time limits had not expired, or if the parties had agreed to modify the loan and the borrower were not in default under the modified agreement. This would apply only to proceedings under Chapter 32 in which the first notice of foreclosure was published within two years after the bill's effective date.

House Bill 4454 (S-1) would do the following:

- Require a foreclosing party, before proceeding with a sale under Chapter 32, to serve on the borrower a written notice containing specified information, including the designation of a contact person who would have the authority to make modification agreements, and notice that foreclosure proceedings would not be commenced for 90 days if the borrower requested a meeting with the designated person.
- Require the foreclosing party to include a list of approved housing counselors with the notice.
- Require the notice to be served by first-class and certified mail, as well as published once as required for publishing notice of a foreclosure sale.
- Allow the borrower to bring an action to enjoin the foreclosure if the required notice were not mailed.
- Require the borrower to contact a housing counselor if he or she wished to work out a modification, and require the counselor to schedule a meeting with the designated contact person.
- Specify that, if the borrower and the designated person had previously agreed to modify the mortgage loan, as provided under the bill, the requirements of the bill and House Bill 4455 (S-1) would not apply unless the borrower had complied with the modified loan terms for one year.

- Provide that the bills' requirements would not apply if the mortgage holder or servicer had qualified the loan for participation in the trial period necessary to obtain a loan modification agreement under the Home Affordable Modification Program administered by the U.S. Treasury Department.

House Bill 4455 (S-1) would do the following:

- Require the borrower, the designated person, or the housing counselor to calculate a modified payment under the FDIC workout program if the meeting did not result in an agreement.
- Require the Michigan State Housing Development Authority to prepare a list of approved housing counselors.

(House Bill 4453 (S-1) would define "FDIC workout program" as the Federal Deposit Insurance Corporation (FDIC) mortgage loan modification program for delinquent residential first mortgages, effective on October 6, 2008, proposed by the FDIC to be used for modifications of residential mortgage loans under 12 USC 5220(b).)

All of the bills are tie-barred and would take effect 30 days after their enactment.

MCL 600.3204 et al. (H.B. 4453)
Proposed MCL 600.3205a & 600.3205b (H.B. 4454)
Proposed MCL 600.3205c-600.3205e (H.B. 4455)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on the State. The bills could result in fewer home foreclosure proceedings or the postponement of foreclosures. If foreclosures were prevented by the process required by the bills, reductions in property values due to foreclosure could be avoided, with the result that local units of government would not lose as much property tax revenue in some cases. The impact would depend on the refinancing options, the value of the home, and other factors.

The Michigan State Housing Development Authority would be required to develop and provide to mortgage lenders a list of approved housing counselors. This new responsibility would require minimal expenditures and would be supported with existing resources.

Date Completed: 3-26-09

Fiscal Analyst: Elizabeth Pratt
Maria Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.