



Senate Fiscal Agency  
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**BILL ANALYSIS**

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House Bill 6614 (Substitute S-1 as reported)  
House Bill 6615 (Substitute S-1 as reported)  
Sponsor: Representative Steve Tobocman (H.B. 6614)  
Representative Bert Johnson (H.B. 6615)  
House Committee: Banking and Financial Services  
Senate Committee: Banking and Financial Institutions

**CONTENT**

House Bill 6615 (S-1) would create the "Home Foreclosure Prevention Act" to establish procedures under which mortgage servicers would notify the Michigan State Housing Development Authority (MSHDA) that proceedings to foreclose a mortgage on residential property (of not more than four units and three acres in size) would be commenced; MSHDA would notify the borrower of resources to avoid foreclosure; and the borrower would have an opportunity to discuss options to avoid foreclosure with the mortgage lender.

Specifically, beginning April 1, 2009, after a mortgage servicer had fulfilled its obligations to notify the borrower under a mortgage note or contract, and at least 21 days before filing a judicial foreclosure action or publishing a notice of foreclosure by advertisement, the mortgage servicer would have to notify MSHDA that proceedings to foreclose a mortgage on residential property would be commenced. Within seven days after the mortgage servicer sent the notice, MSHDA would have to send a notice to the last known address of the borrower to inform him or her of the availability of resources to avoid foreclosure.

Among other things, the notice to the borrower would have to include an itemization of all past due amounts that caused the loan to be in default and of any other charges that had to be paid to bring the loan current; options other than foreclosure available to the borrower; and contact information for counseling agencies and legal aid. With the notice, MSHDA would have to send a form that would allow the borrower to indicate a willingness to discuss options to avoid foreclosure with the mortgage lender or servicer. The notice would have to advise the borrower that he or she should send the form to the servicer within 14 days if he or she wanted to discuss options.

If the borrower mailed the form to the mortgage servicer and participated in discussions with the lender or servicer, foreclosure proceedings could not be commenced until at least 51 days after the date the servicer sent notice to MSHDA. If the borrower did not take those actions, foreclosure proceedings could not be commenced until at least 21 days after the notice to MSHDA was sent.

Upon receiving a notice from MSHDA, a borrower would have to inform any tenants that foreclosure proceedings were imminent.

The proposed Act would be repealed two years after it went into effect.

House Bill 6614 (S-1) would amend the Revised Judicature Act to require the plaintiff in an action to foreclose a mortgage on residential property to include in the complaint a certification that both of the following were true:

- Notice was sent to the borrower that foreclosure proceedings would be commenced, as required by the proposed Home Foreclosure Prevention Act.
- The date that the complaint was filed was on or after the applicable date to commence foreclosure proceedings under the proposed Act.

If the plaintiff failed to include a certification, or if the certification contained a materially inaccurate statement, the court could dismiss the action without prejudice and order the plaintiff to pay the costs incurred by the defendant.

These provisions would apply only to complaints filed after April 1, 2009, and until the Home Foreclosure Prevention Act was repealed.

The bill also would reduce from six months to five months the time following the sale of foreclosed property during which a mortgagor may redeem the premises, if the defendant participated in discussions to attempt to avoid foreclosure under the Home Foreclosure Prevention Act.

The bills are tie-barred to each other and to Senate Bill 1666. (Senate Bill 1666 (S-2) would amend the Revised Judicature Act to require a person who published a first notice regarding a mortgage on residential property to include in the notice and all subsequent notices a statement that notice of foreclosure proceedings was sent as required by the Home Foreclosure Prevention Act.)

MCL 600.3101 & 600.3140 (H.B. 6614)

Legislative Analyst: Craig Laurie

### **FISCAL IMPACT**

According to MSHDA, the bills would dramatically increase its administrative responsibilities in the area of home foreclosures from those who are income-eligible to anyone statewide. It is estimated that an additional eight FTEs and \$1.0 million would be needed to cover these costs. The bills do not include a fund source to cover the costs. Public Act 251 of 2008, the FY 2008-09 appropriation for MSHDA, includes \$37.4 million and 266 FTEs in the Authority's administrative line item. These are restricted funds generated through fees and charges applied to recipients of the financing programs administered by MSHDA.

Date Completed: 12-17-08

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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.