



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

BILL



ANALYSIS

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

Senate Bill 1172 (as introduced 6-6-12)
Sponsor: Senator Darwin L. Booher
Committee: Banking and Financial Institutions

Date Completed: 9-21-12

CONTENT

The bill would amend Chapter 32 (Foreclosure of Mortgage by Advertisement) of the Revised Judicature Act to delay the sunset on the residential mortgage loan modification program for two years, until December 31, 2014.

Specifically, Sections 3205a to 3205d provide for the mortgage modification program, and are scheduled to be repealed on December 31, 2012. The bill would change that date to December 31, 2014.

Also, Section 3204 prohibits a party from beginning foreclosure proceedings under Chapter 32 if a required notice under the modification program has not been mailed to the borrower, if applicable time limits have not expired, or if the parties have agreed to modify the mortgage loan and the borrower is not in default. This provision applies only to proceedings in which the first notice of foreclosure has been published before December 31, 2012. The bill would change that date to December 31, 2014.

MCL 600.3204 & 600.3205e

BACKGROUND

Legislation enacted in 2009 amended Chapter 32 of the Revised Judicature Act to establish procedures under which a borrower must be given an opportunity to work out a modification of a mortgage loan on a principal residence before foreclosure proceedings can be commenced.

These procedures call for the borrower to be given notice containing specified information, including the following:

- The borrower may request a meeting with someone designated by the foreclosing party to attempt to work out a modification of the mortgage loan to avoid foreclosure.
- Foreclosure proceedings will not commence until 90 days after notice is mailed if the borrower requests a meeting.
- If the parties reach a modification agreement, foreclosure proceedings will not be commenced if the borrower abides by the agreement.
- If the parties do not reach an agreement but the borrower meets certain criteria for modification, the foreclosure will proceed before a judge instead of by advertisement.

The notice also must include a list of approved housing counselors developed by the Michigan State Housing Development Authority. To schedule a meeting with the person designated by the foreclosing party, the borrower may contact that person either directly or through a housing counselor.

As a rule, the modification criteria require the foreclosing party's designee to use a loan modification program or process that targets a ratio of the borrower's housing-related debt to the borrower's gross income of 38% or less, on an aggregate basis, applying features specified in the law. If the borrower is eligible for modification according to these calculations, the mortgage holder or servicer typically may not proceed under Chapter 32 but may proceed under Chapter 31, which provides for foreclosure in the circuit court. If the borrower is not eligible for modification, the mortgage holder or servicer may foreclose under Chapter 32.

The sections of Chapter 32 providing for the mortgage modification program originally were scheduled to be repealed on January 5, 2012. Public Act 302 of 2011 delayed the sunset date to December 31, 2012.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton