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BILL



ANALYSIS

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House Bill 4542 (Substitute S-1 as reported)  
House Bill 4543 (Substitute S-1 as reported)  
House Bill 4544 (Substitute H-3 as reported without amendment)  
Sponsor: Representative Jeff Farrington (H.B. 4542)  
Representative Peter Pettalia (H.B. 4543)  
Representative Lisa Lyons (H.B. 4544)  
House Committee: Banking and Financial Services  
Senate Committee: Banking and Financial Institutions

## **CONTENT**

House Bills 4542 (S-1) and 4543 (S-1) would amend Chapter 32 (Foreclosure of Mortgages by Advertisement) of the Revised Judicature Act to change the process for modifying the mortgage on a principal residence, and extend the modification program through 2012. (Under the law, a borrower (mortgagor) must be given an opportunity to meet with the lender regarding modification, and the lender cannot begin foreclosure proceedings if the required procedures have not been followed, applicable time limits have not expired, or the parties have agreed to modify the loan and the borrower is not in default.)

The bills would do the following:

- Allow a borrower to contact a mortgage holder or servicer directly or through a housing counselor, rather than only through a counselor.
- Require the contact to be made within 30 days, rather than 14, after a notice of foreclosure was mailed to the borrower.
- Require the mortgage holder or servicer to designate a contact person who would attend meetings and facilitate negotiations with the borrower.
- Require the borrower to be informed of the number of days in the redemption period, if the property were sold at foreclosure.
- Require the borrower to provide requested documents within 60 days after the notice of foreclosure was mailed to him or her.
- Require the person designated by the lender to give the borrower information about his or her eligibility for mortgage modification within 90 days after the required notice was sent or 10 days after the meeting between the parties, whichever was later.
- Delete a requirement the lender publish a notice of the borrower's rights within seven days after mailing the required notice.
- Provide that a borrower would be liable to the purchaser for property damage that he or she caused during the redemption period following a foreclosure sale.
- Make it a misdemeanor for someone to act or represent himself or herself as a housing counselor, if the person were not on a list of approved counselors (subject to an exemption for practicing attorneys).

Also, under House Bill 4342 (S-1), the mortgage modification program would not apply to a mortgage of property used for agricultural purposes if it were subject to borrowers' rights under the Federal Farm Credit Act, the Consolidated Farm and Rural Development Act, and

regulations promulgated under those Acts, the mortgage were subject to the restructuring of distressed loans under the Federal Acts, and other criteria were met.

Sections 3205a to 3205d of the Act, which contain the requirements for the mortgage modification program, are scheduled to be repealed on January 5, 2012. House Bill 4543 (S-1) would delay the repeal until December 31, 2012.

House Bill 4544 (H-3) would amend Chapter 32 to do the following:

- Delete the three-acre limit on residential property subject to a six-month redemption period if the amount due exceeds two-thirds of the original indebtedness.
- Prescribe a one-year redemption period for property used for agricultural purposes.
- Establish a rebuttable presumption that property was used for agricultural purposes if certain criteria were met.

All of the bills are tie-barred.

MCL 600.3204 et al. (H.B. 4542)  
600.3205a et al. (H.B. 4543)  
600.3240 (H.B. 4544)

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government, apart from the potential impact of the proposed misdemeanor under House Bill 4543 (S-1). Local units would incur the costs of incarceration in local facilities, which vary by county. Public libraries would receive penal fine revenue.

Date Completed: 12-14-11

Fiscal Analyst: Josh Sefton

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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.