Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 380 (Substitute S-1 as reported)
Senate Bill 381 (Substitute S-1 as reported)
Senate Bill 382 (as reported without amendment)
Senate Bill 383 (Substitute S-1 as reported)
Sponsor: Senator Randy Richardville (S.B. 380)
Senator Mike Nofs (S.B. 381)
Senator Jim Marleau (S.B. 382)
Senator Darwin L. Booher (S.B. 383)
Committee: Banking and Financial Institutions

CONTENT

The bills would amend Chapter 32 of the Revised Judicature Act (which governs foreclosure by advertisement) to do the following:

-- Extend the residential mortgage loan modification program until June 30, 2014.
-- Require a mortgage servicer, beginning January 10, 2014, to comply with Federal regulations regarding mortgage servicer policy and procedure.
-- Prohibit a party subject to that requirement from foreclosing on a principal residence if the party complied with the Federal regulations, or if a loan modification had been agreed upon and the mortgagor were not in default.
-- Reduce several redemption periods by 60 or 120 days, if the foreclosing party complied with the Federal regulations.

All of the bills are tie-barred.

Senate Bill 380 (S-1) would amend Section 3204 of the Act, which prescribes conditions that a party must satisfy to begin proceedings to foreclose a mortgage by advertisement. This section also prohibits a party from beginning foreclosure proceedings against a principal residential if a required notice 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 after July 5, 2009, and before June 30, 2013. The bill would change the ending date to January 10, 2014.

Also, under the bill, beginning January 10, 2014, a party that was subject to Section 3206 (proposed by Senate Bill 382 (S-1)) could not begin foreclosure by advertisement proceedings with regard to a principal residence if one or both of the following applied:

-- That party complied with 12 CFR 1024.39 to 1024.41 (which prescribes procedures for early intervention, continuity of contact, and loss mitigation) if the party were subject to those Federal regulations because of Section 3206.
-- The mortgagor and the appropriate person agreed to a loan modification, and the mortgagor was not in default under the modified terms.

Senate Bill 381 (S-1) would delay the sunset on the mortgage loan modification program from June 30, 2013, to June 30, 2014.

Specifically, Sections 3205a to 3205d provide for the program, and are scheduled to be repealed on June 30, 2013. The bill would change that date to June 30, 2013.

Also, under the bill, Sections 3205a to 3205d would not apply to proceedings in which the first notice was published after January 9, 2014.

Senate Bill 382 would add Section 3206 to mandate that, for a proceeding in which the first notice was published after January 9, 2014, a mortgage servicer comply with 12 CFR 1024.39 to 1024.41 with respect to the mortgage. The bill states that this would apply to small servicers even as to the provisions of the Federal regulations that do not apply to small servicers.

("Servicer" would mean that term as defined in the Federal regulations; i.e., generally the person responsible for the servicing of a mortgage loan. "Small servicer" would mean a servicer that qualifies as a small servicer under the Federal regulations, i.e., either services 5,000 or fewer mortgage loans, for which the servicer (or an affiliate) is the creditor or assignee; or is a housing finance agency as defined in 24 CFR 266.5.)

Senate Bill 383 (S-1) would amend provisions that prescribe periods in which a mortgagor may redeem various types of foreclosed real property. For a mortgage of commercial or industrial property, multifamily residential property in excess of four units, and residential property not exceeding four units in which the amount due is more than two-thirds of the original debt, the redemption period is six months from the date of the sale. The Act also prescribes a one-year redemption period for properties not subject to the specified periods.

The bill would reduce the redemption period in these circumstances if Section 3206 applied to the foreclosure of the mortgage and the foreclosing party complied with Section 3206. The redemption period would be reduced by 60 days if 1) the mortgagor provided financial documents in support of a modification of the mortgage before the foreclosure sale, and 2) the property had been listed for sale on terms that the mortgagor and purchaser had agreed to under the foreclosure sale. Otherwise, the redemption period would be reduced by 120 days.

In addition, the redemption period for a mortgage of residential property not exceeding four units, if the property is abandoned, is three months. The bill would change the redemption period to two months.

MCL 600.3204 (S.B. 380)
600.3205e (S.B. 381)
Proposed MCL 600.3206 (S.B. 382)
MCL 600.3240 (S.B. 383)

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

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

Date Completed: 5-28-13

Fiscal Analyst: Josh Sefton

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