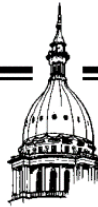




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

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

Senate Bills 380 through 383 (as introduced 5-22-13)

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

Date Completed: 5-23-13

CONTENT

The bills would amend the Revised Judicature Act to do the following:

- **Revise a provision that prohibits foreclosure by advertisement under the mortgage loan modification program for proceedings in which the first notice is published before June 30, 2013, and change the date to January 10, 2014.**
- **After January 9, 2014, prohibit foreclosure by advertisement of a principal residence if the party complied with Federal regulations regarding mortgage servicer policy and procedure, or a modification agreement had been made.**
- **Delay the sunset on the mortgage loan modification program for one year, until June 30, 2014.**
- **Require mortgage servicers and small servicers to comply with Federal regulations regarding mortgage servicer policy and procedure, with regard to foreclosure proceedings in which the first notice was published after January 9, 2014.**
- **Reduce the redemption period by 120 days for certain properties in which the first notice was published after January 9, 2014, if the servicer complied with Federal regulations regarding mortgage servicer policy and procedure.**
- **Reduce the redemption period from three to two months for a mortgage of abandoned residential property that does not exceed four units, in which the amount claimed to be due on the mortgage is two-thirds or less of the original debt.**

All of the bills are tie-barred.

(In 2009, the State enacted legislation to create a residential mortgage loan modification program. This program essentially provides for a 90-day moratorium before a mortgage lender may pursue foreclosure by advertisement against a delinquent borrower. During that time, the borrower must be given an opportunity to work out a modification with the lender.)

Senate Bill 380

Section 3204 of the Act prescribes conditions that a party must satisfy to begin proceedings to foreclose a mortgage by advertisement.

Under the residential mortgage loan modification program, the Act prohibits a party from beginning proceedings 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) 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 1024.38 to 1024.41 (which prescribes policy and procedure requirements for mortgage servicers) 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

Originally, the loan modification program was scheduled to be repealed on January 5, 2012, but the sunset date was delayed to June 30, 2013. The bill would delay the sunset on the program until June 30, 2014.

Specifically, Sections 3205a to 3205d provide for the mortgage modification 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

The bill would add Section 3206, which would mandate that, for a proceeding in which the first notice was published after January 9, 2014, a mortgage servicer comply with 12 CFR 1024.38 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 regulation; 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

The Act prescribes redemption 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 require the redemption period in these circumstances to be reduced by 120 days if Section 3206 applied to the foreclosure of the mortgage and the party foreclosing the mortgage complied with Section 3206.

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

Fiscal Analyst: Josh Sefton