

# SENATE BILL REPORT

## SB 6694

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As of January 26, 2010

**Title:** An act relating to the foreclosure of residential real property.

**Brief Description:** Regulating the foreclosure of residential real property.

**Sponsors:** Senators Gordon, Kline and Fairley.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Insurance: 1/27/10, 2/02/10.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Staff:** Alison Mendiola (786-7483)

**Background:** Foreclosure Timeline. Deeds of trust, which are essentially a type of mortgage, may be foreclosed nonjudicially if the borrower defaults on the loan obligation. A notice of default must be provided to the borrower at least 30 days before the Notice of Sale is recorded in the county auditor's office. A borrower must receive notice of the foreclosure sale 90 days before the date of the sale. The foreclosure sale may not take place less than 190 days from the date of default.

Last year, the Legislature enacted ESB 5810 which added a requirement for deeds of trust made from January 1, 2003, to December 31, 2007, on owner-occupied residential property. A beneficiary cannot issue a notice of default until 30 days after the beneficiary contacts the borrower to explore options for the borrower to avoid foreclosure. During this initial contact, the beneficiary must, among other things, give the borrower contact information for a U.S. Department of Housing and Urban Development (HUD)-certified counseling agency and other places that might be able to assist the borrower. This initial contact requirement expires on December 31, 2012.

Unemployment Benefits. Generally, a person is eligible to receive regular unemployment benefits if he or she: (1) worked at least 680 hours in his or her base year; (2) was separated from employment through no fault of his or her own or quit work for good cause; and (3) is able to work and is actively seeking employment. The person must have been unemployed for a waiting period of one week. The person receives unemployment benefits on a weekly basis.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:** At least 30 days before the notice of sale is recorded, written notice of default is to be provided to the borrower and is to include, among other required disclosures, a statement that informs the borrower that the person has the right to postpone a foreclosure sale if the borrower is receiving unemployment compensation from the state of Washington. If the borrower is receiving unemployment, the borrower is to notify the beneficiary or its authorized agent in writing of the date the borrower filed for unemployment benefits.

When the beneficiary or its authorized agent has received written notice that a borrower of owner-occupied property is receiving unemployment compensation, the beneficiary or its agent is to inform the trustee and the trustee may not proceed with either a judicial or nonjudicial foreclosure sale until one year from the date the borrower started receiving unemployment compensation. A sale made that would otherwise meet these requirements is considered void.

The requirement that a beneficiary cannot issue a notice of default until 30 days after the beneficiary contacts the borrower to explore options to avoid foreclosures applies to all deeds of trust, and is not limited to those originated between January 1, 2003, through December 31, 2007.

When a trustee records a Notice of Trustee's Sale with the county auditor, the trustee is to pay a recording fee of \$25 which the Department of Financial Institutions will use for housing counseling, including both prepurchase outreach and education and postpurchase counseling and support.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.