

HOUSE BILL REPORT

ESB 6033

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to creating the prevent or reduce owner-occupied foreclosure program.

Brief Description: Creating the prevent or reduce owner-occupied foreclosure program.

Sponsors: Senators Berkey, Fairley, Kauffman, McAuliffe, Tom, Marr, Prentice, Shin, Fraser, Kohl-Welles, Eide, McDermott, Jarrett, Regala, Hobbs, Kline, Jacobsen, Murray, Franklin, Hatfield, Kilmer, Haugen, Hargrove and Sheldon.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 3/17/09, 3/26/09 [DPA].

Brief Summary of Engrossed Bill
(As Amended by House)

- Replaces the Smart Home Ownership Program with the Prevent or Reduce Owner-Occupied Foreclosure (PROOF) Program and makes unspent funds available to the new program.
- Establishes a pool of unpaid volunteers from relevant professions, such as accountants, bankers, attorneys, mortgage brokers, and housing counselors, to advise borrowers in achieving work-outs, loan modifications, or other results that keep them in their homes.
- Creates a committee to advise the Housing Finance Commission on implementation of the PROOF Program.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended. Signed by 11 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Hurst, McCoy, Nelson, Roach, Rodne, Santos and Simpson.

Staff: Alison Hellberg (786-7152)

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.

Background:

Legislation enacted in 2008 created the Smart Homeownership Choices Program (Smart Program) to provide grants or loans to assist qualifying homeowners who are delinquent on their mortgage payments. Under the Smart Program, the Department of Financial Institutions (DFI) funds the Washington State Housing Finance Commission (Commission), as needed, to implement and operate the Smart Program to prevent foreclosures. The Commission assists homeowners who are delinquent on their mortgage payments in bringing their mortgage payments current so they may refinance the purchase of their homes.

The Commission determines the terms and conditions of the assistance. Financial assistance received by homeowners must be repaid at the time of refinancing. Homeowners receiving financial assistance must agree to participate in a Residential Mortgage Counseling Program.

Not more than 4 percent of the total appropriation for the Safe Program may be used for administrative expenses of the DFI and the Commission. The Commission must also establish and report upon measures to gauge program's efficiency and effectiveness and customer satisfaction. The funds appropriated for the Smart Program remain largely unspent.

A Financial Literacy and Education Program was also created during the last legislative session to provide counseling and education to prospective homeowners and homeowners facing foreclosure.

Summary of Amended Bill:

The unspent funds for the Smart Program are made available to the Prevent or Reduce Owner-Occupied Foreclosure Program (PROOF). The Smart Program is replaced by PROOF. This PROOF program is created in the DFI to assist borrowers facing foreclosure in achieving work-outs, loan modifications, or other results that keep them in their homes. Qualifying borrowers are residents of Washington, with an emphasis on borrowers with incomes up to 140 percent of the county median income level.

The PROOF provides a pool of unpaid volunteers from relevant professions, such as accountants, bankers, attorneys, mortgage brokers, and housing counselors, to advise borrowers in achieving work-outs, loan modifications, or other results that keep them in their homes. A "work-out" is defined as an agreement made between the borrower and mortgagee or beneficiary under a deed of trust that results in the borrower's continued residence in the mortgaged residential property. The Commission implements the PROOF to pair volunteers and borrowers in the most productive manner. Not more than 4 percent of the total appropriation for the PROOF may be used for administrative expenses of the DFI and the Commission.

The Prevent or Reduce Owner-Occupied Foreclosure Oversight Committee (PROOF Oversight Committee) is created to oversee the PROOF program. The PROOF Oversight Committee is established and staffed by the Commission and serves without compensation. The PROOF Oversight Committee's duties include:

- advising the Commission;
- developing criteria for measuring the success of PROOF, including: the number of homeowners served, number of workouts achieved, amount of federal funds received for homeowner stabilization, decreases in foreclosure rate, and number of volunteer professionals participating;
- evaluating the effectiveness of PROOF;
- developing and maintaining an inventory of state and federal assistance programs; and
- coordinating all state efforts related to prevention or reduction of owner-occupied foreclosures.

The PROOF Oversight Committee is comprised of:

- two members of the Senate, appointed by the President of the Senate;
- two members of the House of Representatives, appointed by the Speaker;
- the Director of the DFI;
- the Executive Director of the Commission;
- a representative of the Washington State Bar Association;
- a representative of the Office of Civil Legal Aid;
- a representative of a bankers association;
- a representative of the State Board of Accountancy;
- a representative of community banks;
- a representative of mortgage brokers;
- a representative of housing counselors; and
- a representative of credit unions.

Provisions related to the PROOF program, the PROOF Account, and the PROOF Oversight Committee are repealed effective June 30, 2011.

Amended Bill Compared to Original Bill:

Mortgage brokers and housing counselors are added to the pool of volunteers. The requirement that accountant volunteers be certified public accountants is removed. The objective of the volunteers is modified from assisting borrowers in achieving "work-outs" to assisting borrowers in achieving work-outs, loan modifications, or other results that keep them in their homes.

The borrowers who are eligible for the assistance are changed from those with incomes up to and including the county median income level to those who are residents of Washington, with an emphasis on borrowers with incomes up to 140 percent of the county median income level. The program's authority to qualify volunteers as third-parties from whom declarations may be obtained, regarding deeds of trust requirements is removed.

Four members are added to the PROOF Oversight Committee, including representatives of community banks, mortgage brokers, housing counselors, and credit unions. Representatives from the Washington State Bar Association, the Office of Civil Legal Aid, a bankers association, and the State Board of Accountancy are voting rather than non-voting members of the PROOF Oversight Committee.

The provisions are repealed on June 30, 2011.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is an exciting new concept. It is a stimulus and part of our economic recovery. The number of foreclosures is increasing, in excess of 18,000 at the end of 2008. Keeping people in their homes is essential to improving the economy. This bill is geared toward moderate income homeowners. The goal of this bill is to coordinate resources and focus on helping those who face foreclosure.

The Smart Program has not worked as planned. The \$250,000 appropriated for the Smart Program has gone unused and this new PROOF would be an effective use of that money. The Commission has been successful in helping homeowners get loan modifications, but it would be helpful to bring together a large number of professionals. When negotiating with lenders it would be more productive to have volunteers with knowledge representing the homeowner. A few changes to the bill would make it more workable.

The Board of Accountancy is supportive of the PROOF, but would like to see some minor changes to the bill to allow accountants to better participate.

(Opposed) None.

Persons Testifying: Senator Berkey, prime sponsor; Kim Herman, Housing Finance Commission; Diane Bren, Washington Board of Accountancy; Denny Eliason, Washington Bankers Association and the United Financial Lobby; and Bob Mitchell, Washington Realtors.

Persons Signed In To Testify But Not Testifying: None.