
Judiciary Committee

HB 2876

Title: An act relating to foreclosure of deeds of trust.

Brief Description: Addressing the foreclosure of deeds of trust.

Sponsors: Representatives Orwall, Kirby and Griffey.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Expresses intent to make changes in the Foreclosure Fairness Act in order that services, including counseling and mediation, remain available and provision of these services is financially viable.
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Hearing Date: 1/28/16

Staff: Cece Clynch (786-7195).

Background:

Most loan obligations for residential real property in Washington are secured by deeds of trust. In 2011, the Foreclosure Fairness Act (Act) was enacted, making changes to the process related to the nonjudicial foreclosure of deeds of trust. As part of those changes, the Foreclosure Fairness Program (Program) was established. A variety of agencies are involved with the Program. Their roles and responsibilities are set forth below:

- The Department of Commerce (the Department) is charged with the overall development and management of the Program, including the mediation program. The Department is responsible for training, approving, and maintaining a list of approved foreclosure mediators, and assigning them to mediation cases. The director of the Department authorizes expenditures from the Foreclosure Fairness Account (the Account).
- The Housing Finance Commission administers the homeowner counseling program and oversees a toll-free hotline where homeowners in need of foreclosure prevention assistance can call and receive free foreclosure prevention counseling.

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.

- The Department of Financial Institutions is responsible for conducting homeowner pre-purchase and post-purchase outreach and educational programs, and raising public awareness of the services provided under the Program.
- The Office of the Attorney General (AGO) Consumer Protection Division investigates consumer protection complaints and enforces deed of trust foreclosure laws.
- The Office of Civil Legal Aid contracts with qualified legal aid programs to provide free legal assistance to low- and moderate-income homeowners in matters related to foreclosure.

The Program is supported by private funds. Certain beneficiaries remit a \$250 fee to the Department, for deposit into the Account, for each Notice of Default issued on owner-occupied residential real property in the state.

The funds remitted by beneficiaries and deposited into the Account are allocated, as follows:

- no less than 71 percent of the funds must be used for providing housing counselors to borrowers, except that this amount may be less than 71 percent if necessary to meet the funding level specified for the AGO Consumer Protection Division for enforcement and the Department;
- up to six percent, or \$655,000 per biennium, whichever amount is greater, to the AGO to be used to enforce the law with respect to deeds of trust;
- up to two percent to the Office of Civil Legal Aid to be used for the purpose of contracting with qualified legal aid programs for legal representation of homeowners in matters relating to foreclosure;
- up to 18 percent, or \$1.4 million per biennium, whichever amount is greater, to the Department to be used for implementation and operation of the Act; and
- up to three percent to the Department of Financial Institutions to conduct homeowner pre-purchase and post-purchase outreach and education programs.

Summary of Bill:

After finding that there remains a need for services made available under the Act, legislative intent is expressed to make some changes in order that these services remain available and provision of these services is financially viable.

Appropriation: None.

Fiscal Note: Not requested.

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