SENATE BILL REPORT
SB 5938

As of January 12, 2026

Title: An act relating to the foreclosure prevention fee.

Brief Description: Concerning the foreclosure prevention fee.

Sponsors: Senator Orwall.

Brief History:
Committee Activity: Housing: 1/14/26.

Brief Summary of Bill

- Revises and specifies exemptions, a limitation, disclosures, and payment of the foreclosure prevention fee.
- Authorizes the Department of Commerce (Commerce) to adopt rules.
- Requires Commerce, in consultation with the Washington State Housing Finance Commission, to conduct a study on the feasibility of directing a portion of foreclosure prevention fee collections to establish a state homeowner assistance fund to provide direct financial assistance to certain homeowners.

SENATE COMMITTEE ON HOUSING

Staff: John Kim (786-7453)

Background: In 2025, the Legislature created an $80 foreclosure prevention fee assessed on each residential mortgage loan originated within or outside this state and related to property located within this state, except for reverse mortgage loans issued to seniors over the age of 61. The fee applies to residential mortgage loan closings that occur on or after July 27, 2025, and is payable at the time of closing by the escrow or other settlement or closing agent into the Foreclosure Fairness Account. The fee may be financed in the loan

---

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

and paid from the loan proceeds or from any borrower cash contribution at the time of closing.

The Department of Commerce (Commerce) may make policies and procedures related to implementation, collection, remittance, and management, and enter into individualized agreements governing the efficient remittance of the fee.

Collections from the fee and other revenues in the Foreclosure Fairness Account are distributed by the director of Commerce, as follows:

- 50 percent for providing housing counseling activities to benefit borrowers;
- 8 percent to the Office of the Attorney General to enforce violations related to deeds of trust;
- 16.5 percent to the Office of Civil Legal Aid to be used for contracting with qualified legal aid programs for legal representation of homeowners in matters relating to foreclosure;
- 15 percent to fund the foreclosure prevention hotline;
- 0.5 percent to fund outreach; and
- 10 percent to Commerce to be used for implementation and operation of the Foreclosure Fairness Act.

Summary of Bill: Exemptions from the Fee. The following changes are made to loans exempted from the fee:

- the age threshold for a borrower of a reverse mortgage loan exempted from the fee is lowered from over the age of 61 to 60 years of age or older; and
- chattel loans or retail installment contracts to purchase a dwelling where the dwelling is secured as personal property are exempt from the fee.

Limitation for Certain Borrowers. The fee may only be collected on the first lien residential mortgage loan if:

- a borrower is purchasing residential real property of up to four units; and
- the purchase transaction is financed in any part through any state housing trust fund program administered by Commerce, the Covenant Homeownership Program, or any homeownership program administered by the Washington State Housing Finance Commission.

Payment of the Fee. The bill removes an authorization for the fee to be paid from a borrower cash contribution. It retains an authorization for the fee to be paid from the loan proceeds at the time of closing.

Disclosure and Finance Charge Calculation. The fee must be disclosed in accordance with federal and state law, but it may be excluded from the finance charge calculation.

Administration by the Department of Commerce. Commerce is granted the power and broad administrative discretion to administer and interpret provisions relating to the fee, and may

adopt necessary rules to interpret, implement, and enforce the provisions.

Study on a State Homeowner Assistance Fund. Commerce, in consultation with the Washington State Housing Finance Commission, must conduct a study to evaluate the feasibility of directing a portion of collections from the fee to establish a state homeowner assistance fund to provide direct financial assistance to homeowners who have exhausted all options under the Foreclosure Fairness Act to remain in their home. The study and proposed legislation must be submitted to the Governor and the appropriate committees of the Legislature by October 1, 2026.

Appropriation: None.

Fiscal Note: Requested on January 7, 2026.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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