

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass as Amended and Be Printed Engrossed
Vote: 6 - 1 - 3
Yeas: Barton, Cowan, Matthews, Riley, Tomei, Holvey
Nays: Weidner
Exc.: Gilliam, Krieger, Wingard
Prepared By: Victoria Cox, Administrator
Meeting Dates: 4/14, 4/24, 4/27, 4/28

WHAT THE MEASURE DOES: Provides that foreclosure and sale by trustee of residential property precludes further action for a deficiency against homeowner on any additional trust deed for the property given as security for an obligation, with exceptions. Declares an emergency; effective on passage.

ISSUES DISCUSSED:

- Homes purchased with two trust deeds (80/20)
- Foreclosure and sale of home followed by suit against homeowner for second note
- Recent court cases that established cause of action on second note following foreclosure on the first
- Potential unintended consequences of legislation
- Enforcement of statutory requirement to deliver trustee's deed to the purchaser within ten days of sale

EFFECT OF COMMITTEE AMENDMENT: Creates exceptions in cases where a junior creditor bringing an action for a deficiency does not foreclose on the property, does not receive proceeds from the sale, or is not a trustee or beneficiary of the deed.

BACKGROUND: One form of creative home financing involves a purchase secured by two trust deeds where the purchase price exceeds the buyer's ability to qualify for a single loan, referred to as an 80/20. Recent court cases have established the junior creditor's right to sue for the deficiency remaining following foreclosure and sale of the property. HB 3004-A is intended to preclude suits against a homeowner following foreclosure for any deficiency remaining on additional notes secured by the property.