

HB 2459 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/12, 4/4

WHAT THE MEASURE DOES:

Postpones sale or judicial action related to enforcement of encumbrance after request is received and for a reasonable time for authorized recipient to tender full payment of encumbrance. Requires a person holding an encumbrance on property to provide an authorized recipient with a complete and accurate lien statement within 30 days of request for the lien statement. Prohibits authorized recipient from requesting more than one lien information statement for the same property in 12-month period, except when recipient reasonably believes property will be subject to foreclosure or enforcement of the encumbrance, or the information is requested for the purpose of closing a pending transaction on that particular property. Allows encumbrance holder to charge up to \$15 per lien information statement, but does not allow charge in situations in which statement is requested after encumbrance holder takes action to foreclose or enforce encumbrance. Specifies form. Provides process for authorized recipient to compel compliance by encumbrance holder. Specifies court process acts as injunction against sale, forfeiture, or transfer of real property. Specifies that a lien information statement may be treated as a payoff statement if the authorized recipient tenders or pays the amount specified within 30 days of receiving the statement. Provides court process to clear encumbrance upon satisfaction of lien. Defines terms.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces measure. Specifies that a person or agent of the person that holds a lien that is an encumbrance on real property may request an itemized statement from another lien holder. Requires statement to include amount necessary to pay off other lien and any per diem interest that may accrue on the obligation. Defines encumbrance. Allows person receiving request to fulfill request without permission of other obligor, so long as state or federal law do not require consent.

BACKGROUND:

House Bill 2459 sets up a process for a person, such as a property owner, lien holder, or trustee to request and receive information on the amount of a lien attached to a particular piece of real property. The person holding the lien or encumbrance must provide a statement, as specified in the measure, to the person within 30 days of request. During that time, and for a reasonable time thereafter, the holder may not foreclose or otherwise enforce the lien on the property. The measure specifies the contents that must be disclosed, and court processes for obtain the information when a lien holder does not comply. The measure also provides that the statement acts as a payoff statement for 30 days following providing the statement.