

HB 2009 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 3/3

WHAT THE MEASURE DOES:

Prohibits lender from foreclosing on a subject property during the emergency period. Provides exceptions to foreclosure moratorium.

Requires lender to defer from collecting payments if lender and borrower cannot agree to a foreclosure avoidance measure. Requires lender to allow borrower to make the deferred payments at the loan's scheduled end. Prohibits borrower from imposing charges, fees, default rate of interest, or otherwise treat the borrower's missed payments as a default during the emergency period.

Requires borrower, if they wish to receive protections offered by this Act, to notify lender that the borrower cannot make payments. Requires lender to notify borrower who cannot make a payment that borrower may be entitled to relief under this Act.

Stays during the emergency period any foreclosure of subject property that was initiated on or after March 8, 2020.

Provides private right of action to borrower who suffers a loss because lender violated these provisions.

Applies to borrowers who own no more than five subject properties. Defines a subject property as having no more than four improvements meant for residential use.

Establishes emergency period as December 31, 2020, to September 1, 2021, unless extended by Governor to December 31, 2021.

For 2021 and 2022, requires lender to participate in Foreclosure Avoidance Program unless they commenced 30 or fewer foreclosures in 2019. In 2023 and years thereafter, requires lender to participate in the program unless they commenced 30 or fewer foreclosures in the prior calendar year.

Allows participants in Foreclosure Avoidance Program to participate by means of remote audio or video communication.

Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Applies provisions to borrowers with up to 10 subject properties.

BACKGROUND:

During the First Special Session of 2020, the Legislative Assembly passed HB 4204 to provide temporary payment deferral and protection from foreclosure for residential and commercial borrowers through September 30, 2020. Governor Brown's Executive Order 20-37 extended the protections through December 31, 2020. Legislators, and the public, discussed the desire to protect people from losing their home during a public health crisis and to provide relief to homeowners while the economy responded to the pandemic, in general, and Governor Brown's

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restrictions on business and school operations.

House Bill 2009 reinstates temporary mortgage payment deferral and protection from foreclosure to borrowers who own no more than five properties that each include no more than four residential improvements. These protections will apply through September 1, 2021, with an allowance for the Governor to extend through December 31, 2021. The measure also changes the threshold for a lender to be exempt from participating in the Foreclosure Avoidance Program. Currently, if a lender commenced no more than 175 foreclosures in the prior calendar year, they will be exempt for the current year. House Bill 2009 drops the threshold to 30 foreclosures, making it more difficult to qualify for an exemption. For this year and 2022, an exemption will be allowed if no more than 30 foreclosures were commenced in 2019.