

HB 2009 A STAFF MEASURE SUMMARY

Carrier: Rep. Holvey

House Committee On Business and Labor**Action Date:** 03/24/21**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 6-5-0-0**Yeas:** 6 - Bynum, Evans, Fahey, Grayber, Holvey, Witt**Nays:** 5 - Bonham, Boshart Davis, Breese-Iverson, Clem, Post**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Jan Nordlund, LPRO Analyst**Meeting Dates:** 3/3, 3/24**WHAT THE MEASURE DOES:**

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 payment deferral protections offered by this Act, to notify lender that the borrower cannot make payments due to income loss related to COVID-19 pandemic. Requires lender to notify borrower who cannot make a payment that borrower may be entitled to relief under this Act. Provides private right of action to borrower who suffers a loss because lender violated these provisions. Prohibits lender from foreclosing on a subject property during the emergency period. Provides exceptions to foreclosure moratorium. Stays any foreclosure of subject property during the emergency that was initiated on or after March 8, 2020. Applies to borrowers who own no more than five subject properties and defines a subject property as property upon which are situated no more than four residential dwellings. Establishes emergency period as December 31, 2020, to June 30, 2021, with authority for Governor to extend twice in three-month increments. For 2021 and 2022, requires lender to participate in Foreclosure Avoidance Program unless they commenced 30 or fewer foreclosures in 2019. For 2023 and subsequent years, requires lender to participate in the program unless they commenced 30 or fewer foreclosures in 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:

- Expiration on December 31, 2020, of prior moratorium
- Efforts of work group to develop proposal
- Existing protections for federally backed mortgages
- Estimated federal assistance through the Homeowners Assistance Fund
- Time needed to receive federal funds and disburse to those in need
- Whether commercial property owners should receive same protections as homeowners
- Long-term impact to homeowner when served with notice of default

EFFECT OF AMENDMENT:

Modifies definition of "borrower" to clarify that borrower directly, or indirectly through an entity, owns not more than five subject properties. Modifies definition of "subject property" to clarify that it is real property upon which are situated no more than four dwelling units used primarily and designed solely for residential use. Modifies definition of "emergency period" to end on June 30, 2021, with allowance for Governor to extend twice in three-month increments, which aligns with federal foreclosure protection timelines. Clarifies that borrower from notice must indicate that payments are missed because of a loss of income that is related to COVID-19 pandemic.

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Allows foreclosures during the emergency period that dispose of vacant or abandoned property. Clarifies that beneficiary qualifies for exemption from Oregon Foreclosure Avoidance Program in 2021 and 2022 if number of foreclosures commenced in 2019 did not exceed 30.

BACKGROUND:

Legislation enacted during the First Special Session of 2020 (House Bill 4204) provided temporary payment deferral and protection from foreclosure for residential and commercial borrowers through September 30, 2020. Governor Brown extended the protections through December 31, 2020, through Executive Order 20-37. The legislation was intended to protect people from losing their home during a public health crisis and to provide relief to residential and commercial borrowers while the economy responded to the pandemic. Federally backed mortgages are currently protected under a federal foreclosure moratorium and payment forbearance program. It is estimated that federally backed mortgages account for 70 percent of all mortgages. The U.S. Census Bureau's Pulse Survey for March 3-15 indicates that approximately 65,000 Oregon households are behind on their mortgage payments.

House Bill 2009 A 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 dwellings. These protections will apply through June 30, 2021, with an allowance for the Governor to extend twice in three-month increments. The measure also changes the threshold to exempt a lender from participating in the Oregon Foreclosure Avoidance Program. Currently, the exemption applies if a lender commenced no more than 175 foreclosures in the prior calendar year. House Bill 2009 A lowers the threshold in 2021 and 2022 to 30 foreclosures commenced in 2019; in 2023 and subsequent years the threshold will be 30 foreclosures commenced in the prior year.