

Legislative Analysis



MORTGAGE LOAN MODIFICATION

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House Bills 4764 & 4766-4767

Sponsor: Rep. Mike Callton, D.C.

House Bill 4765

Sponsor: Rep. Jeff Farrington

Committee: Financial Services

Complete to 6-4-13

A REVISED SUMMARY OF HOUSE BILLS 4764-4767 AS INTRODUCED 5-23-13

The bills would amend Chapter 32 of the Revised Judicature Act, which deals with the foreclosure of mortgages by advertisement (as contrasted with judicial foreclosure). The bills address the mortgage loan modification program enacted in 2009. In brief, the bills would do the following:

House Bill 4764 would revise a provision that currently prohibits foreclosure by advertisement under the mortgage loan modification program for proceedings in which the first notice is published before June 30, 2013; it would change that date to January 10, 2014. The bill would amend Section 3204 of the RJA, which prescribes conditions that a party must satisfy to begin proceedings to foreclose a mortgage by advertisement.

The bill would also, after January 9, 2014, prohibit a party from foreclosing a mortgage of property claimed as a principal residence if (1) the party complies with certain specified federal regulations (as described under Section 3206 in House Bill 4766) and/or (2) if the mortgagor (borrower) has agreed with the appropriate person to modify the terms of the note or other loan agreement secured by the mortgage and the mortgagor is not in default under the modified terms.

The bill cites the federal regulations as 12 CFR 1024.38 to 1024.41. Generally speaking, these federal regulations deal with early intervention by servicers with late borrowers, continuity of contact between servicers and borrowers, and loss mitigation options. (A principal residence is a term used for property tax purposes and refers to an owner-occupied home; only one such home is allowed to be classified as a principal residence.)

House Bill 4765 would delay the sunset on the mortgage loan modification program for one year, until June 30, 2014. The bill would amend Section 3205e. Without the bill, Sections 3205a to 3205d, which contain the modification program, would be repealed as of June 30, 2013.

House Bill 4766 would create a new Section 3206 that would require mortgage servicers and small servicers to comply with federal regulations (at 12 CFR 1024.38 to 1024.41) regarding mortgage servicer policy and procedure. This would apply to foreclosure

proceedings in which the first notice was published after January 9, 2014. The bill specifies that the bill would apply to small servicers even as to the federal provisions that do not apply to small servicers.

House Bill 4767 would amend Section 3240. This section prescribes the length of the redemption period during which a mortgagor (borrower) can redeem foreclosed property. The redemption period varies depending on the type of property. The bill would reduce the redemption period by 120 days for certain properties in which the first notice was published after January 9, 2014, if Section 3206 applied to the foreclosure and if the party foreclosing the mortgage complied with Section 3206 (that is, complied with federal regulations cited in that section). Section 3206 would be created by House Bill 4766, as described above.

The bill also would reduce the redemption period from three to two months for a mortgage of abandoned residential property that does not exceed four units.

FISCAL IMPACT:

The bills do not appear to have any direct fiscal impact. A fiscal analysis is in process.

Legislative Analyst: Chris Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.