



The foreclosure reform package modifies the foreclosure by advertisement process in Michigan. While we continue to oppose the legislation, it is important to recognize the tremendous improvement over previous proposals that included such consequences as a flat two-year moratorium on all foreclosures and mandatory involvement in the workout discussions by a third party such as OFIR, the judicial system or a state mediator in each foreclosure transaction. Early legislation even included a provision that any failed workout could use only judicial foreclosure.

The new legislation is expected to make the following changes:

- Require lenders to send a default notice to borrowers. The notice may be sent at any time after default.
- The notice must be by first class mail and certified mail with return service and indicate the borrower has the right to contact a MSHDA/HUD counselor and must include a list of counselors.
- Lender must also publish in a newspaper within seven days of mailing the notice and it must contain information to alert the borrower of their default (similar to foreclosure publication).
- The borrower has up to 14 days from the date the notice is sent to contact a counselor.
- The counselor has up to 10 additional days to communicate with the bank to initiate a mortgage modification to keep the borrower in the home.
- If the counselor notifies the bank, there is a 90-day period from date of default notice to effect a loan modification before the bank can file for foreclosure.
- The bills included an MBA-sponsored amendment that describes a loan modification program that acts as a filter to prevent loans from reaching judicial foreclosure.
- The filter is intended to make the possibility of loans that cannot be worked out from proceeding automatically to judicial foreclosure.
- IF the borrower does not respond to the notice in the required time, the lender would be able to proceed to foreclosure by advertisement.
- IF the borrower requests a meeting with the lender, the borrower must give financial information so that the lender can determine if the borrower qualifies for a modification.
- The lender must also use a loan modification program or process, modeled loosely on the national model, that includes the following:
  - The loan modification program or process targets a ratio of the borrower's housing related debt which includes, principle, interest, taxes, insurance and homeowners' fees, to the borrowers gross income of 38 percent or less, on an aggregate basis.
  - In order to reach the 38 percent target, the loan modification program or process shall include some combination of the following features:
    - A reduced interest rate, subject to a floor of 3% for a fixed term of at least five years.
    - An extension of the amortization period for the loan more TO than 40 years from the date of the loan modification.
    - Deferral of some portion of the amount of unpaid principle balance not to exceed 20 percent.
    - Reduction or elimination of late fees.
- The lender could also follow guidelines of the secondary market providers.
- A modification would also be allowed outside of the above descriptions if both parties MUTUALLY agree.
- If the borrower can demonstrate that a notice was not sent or the bank did not use its or the secondary market's modification guidelines to secure a workout, the borrower could limit the bank to only judicial foreclosure.