

Michigan Extends Mortgage Loan Modifications, Stiffens Regulatory Compliance

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In an effort to reduce mortgage foreclosure abuses, Michigan Gov. Rick Snyder signed Public Acts 103, 104, 105, 106 of 2013 into law this summer.

The Acts extend the mortgage loan modification program for one year, until June 30, 2014 and require mortgage servicers and small servicers to comply with federal regulations regarding mortgage servicer policy and procedure related to foreclosure proceedings in which the first notice is published after Jan. 9, 2014. The Michigan Legislature will continue to address changes in the foreclosure statutes.

Additionally, in an effort to curtail fraud and assure proper verification of original signatures, the Michigan Secretary of State is proposing to increase notary requirements and create a proposed "accredited notary" who will be required for certain document verification, such as those involving real estate transactions. The new requirements would include education requirements and written exams, criminal background checks and increased journal requirements.

Pending House Bills (HB) 4638-4640 will provide for perfection of mortgages and other interests evidenced by recorded affidavits. This will resolve the issue addressed in conflicting bankruptcy decisions regarding perfection of mortgages. Final changes are being made to the bills after discussions among the State Bar of Michigan's Real Property Law Section, Michigan Land Title Association and the Register of Deeds Association. The proposed amendments to the recording statutes would address the perfection of mortgages by recorded affidavit and resolve the issue created by conflicting bankruptcy decisions. A recorded affidavit would perfect an executed mortgage that was lost and not recorded.

In an effort to relieve borrowers and lenders from additional financial losses upon a foreclosure, HB 4440 (transfer tax) would amend MCL 207.526 to exempt from state transfer tax a transfer back to a mortgagor after a foreclosure, under certain conditions.

The amendment generally would apply to a foreclosed party who is purchasing back from a foreclosing lender within 90 days from the expiration of the redemption period or date of execution of a deed in lieu of foreclosure. The Legislature will consider the unknown fiscal impact on the Michigan School Aid Fund to which these taxes are earmarked.

MICHIGAN EXTENDS MORTGAGE LOAN MODIFICATIONS, STIFFENS REGULATORY COMPLIANCE Cont.

It can certainly be expected that more legislation will be proposed to address the issues arising from increased foreclosures and related real estate problems.

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