

SUBJECT: Studying the causes of residential foreclosures in Texas

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 6 ayes — Solomons, McCall, Chavez, Flynn, Guillen, Orr
0 nays
1 absent — Riddle

WITNESSES: For — John Henneberger, Texas Low Income Housing Information Service; Sandra Williams, Texas Association of Community Development Corporations and Alamo Area Mutual Housing Association; (*Registered but did not testify*: Jason Sabo, United Ways of Texas)

Against — None

On — Homero Cabello, Jr., Tim Irvine, Texas Department of Housing and Community Affairs; (*Registered but did not testify*: Byron Johnson, Texas Department of Housing and Community Affairs)

BACKGROUND: The Texas Department of Housing and Community Affairs (TDHCA) is the state's lead agency responsible for affordable housing and housing-related and community service programs, as well as the regulation of the state's manufactured housing industry. TDHCA's charge is to serve the state's extremely low-income to moderate-income populations by addressing a broad spectrum of housing and community affairs issues.

Texas has the largest number of foreclosed homes listed for resale in the nation. In 2004, almost 32,000 foreclosed houses were on the market in Texas.

DIGEST: CSHB 1582 would require TDHCA to conduct a study examining mortgage foreclosure rates in Bexar, Cameron, Dallas, El Paso, and Travis counties. The study would be directed by an advisory committee chaired by a representative of the Texas Housing and Research Consortium at the University of Texas at Austin and comprising members of the mortgage lending industry, representatives of community and consumer interests,

and one representative each of the savings and loan commission and TDHCA.

In the study, the advisory committee would address the following topics:

- the relationship between the terms of mortgages and the foreclosure rate;
- the socioeconomic and geographic elements characterizing foreclosures;
- the securitization of mortgages in the secondary market and its effect on foreclosures;
- consumer education efforts to prevent foreclosures; and
- recommendations to reduce foreclosure and the foreclosure rate.

The committee would determine the methodology to be used in the study, and TDHCA could contract with appropriate organizations to conduct the study. All state agencies, boards, commission, and institutions of higher education would be required to comply with requests for information and assistance. All findings would be approved by a majority of the members.

TDHCA would make the study available to TDHCA, the Savings and Loan Department, and the Legislature, and aggregate data would be made available to the public according to privacy disclosure provisions. TDHCA would report to the governor, the lieutenant governor, and the speaker of the House on the study and its results not later than September 1, 2006.

TDHCA could use money already available to the affordable housing research and information program or any grants and donations obtained to conduct the study.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

The study required by CSHB 1582 would gather crucial information related to factors in Texas that contribute to the state's disproportionately large number of foreclosures. Data obtained from the study could be used as a basis for legislative and regulatory measures needed to rectify predatory lending or other contributing factors. While some nationwide studies have investigated various aspects of foreclosures, there have been

no specific studies in Texas to address issues unique to Texas and its regulations.

TDHCA is the best entity to lead the foreclosure study because the agency already conducts a variety of other housing-related studies. At the direction of the well rounded advisory committee, the study would focus on a wide array of factors that contribute to foreclosures. The research would be solution-driven, and the information gathered would lead to fact-based recommendations. Money for the research would come out of existing funds or new grants, so it would not require any additional cost. According to the fiscal note, TDHCA could absorb the cost of the study in its existing resources. The study appropriately would focus on urban, rural, and border counties, so the research could cover the full array of issues that have arisen.

A mortgage provides a person with a financial foundation and confers stability. Particularly for low income people, their home often is their primary asset. Texas' home ownership rate is in the bottom third in the nation, and there has been a significant decline in minority homeownership in the last 10 years. Increasing home ownership would promote economic self-sufficiency and grow the tax base.

Recently, sub-prime lending has been on the rise, including a tenfold increase in sub-prime home refinance in border counties. Studies suggest that more than half of sub-prime loan recipients could have qualified for prime rates. Not only does this represent a huge loss of equity to mortgagees and unnecessary interest payments that go primarily to out-of-state institutions, but this practice may relate to the high rate of foreclosure. Although sub-prime lending is not a predatory practice in and of itself, it becomes a predatory practice when applied to borrowers who could have qualified for prime rates. This study could be an important first step in determining if this and other predatory lending practices or other factors are contributing to the high rate of foreclosure in Texas, which would help the state determine a strategy to resolve this issue.

**OPPONENTS
SAY:**

While such a study would serve a very worthy purpose, it would be difficult to gather all the information sought in the proposed study. There are many mechanisms by which people conduct predatory lending, and mortgage brokers do not always keep the sort of records that would make such behavior easily identifiable. The loan process would be very difficult to track from beginning to end given the wide array of circumstances,

especially those that pertained to the former owner, that can bring about foreclosure.

NOTES:

The original bill did not specify the members of the advisory committee or that monies from grants and donations could be used for the study. The original bill also would have focused research on sub-prime mortgage lending practices.