

## **SB 5938**

**Washington SB 5938 generally favors consumers by stabilizing and expanding foreclosure-prevention infrastructure, and is broadly neutral-to-modestly positive for most title insurance providers and escrow agents, with some added administrative burden.**

### **Context and What the Bill Does**

- The bill keeps the existing flat \$80 foreclosure prevention fee on each residential mortgage loan secured by Washington property, payable at closing into the Foreclosure Fairness Account.
- It clarifies and modestly expands exemptions (reverse mortgages at 60+, chattel/retail installment home-only loans) and tightens disclosure and notice obligations on escrow/settlement agents, while confirming Commerce's broad rulemaking and administrative authority.
- Commerce must study using part of the fee for a state homeowner assistance fund to provide direct financial assistance once Foreclosure Fairness Act options are exhausted.

### **Consumer Impact**

- The Foreclosure Fairness Program already funds free housing counseling, civil legal aid, and mediation, which empirical reporting shows helps many borrowers avoid or better manage foreclosure outcomes.
- An \$80 financed fee is small relative to typical loan amounts and, if it maintains or improves access to counseling/mediation and potentially direct homeowner assistance, the net effect for at-risk borrowers is beneficial, especially in a rising-cost environment where foreclosures have been trending upward from post-pandemic lows.

### **Impact on Title / Escrow and Lenders**

- For escrow and title, the bill largely preserves the existing fee framework created in prior legislation (SB 5686), so operationally this is continuation, not a brand-new burden: collect at closing, remit, and provide a statutorily prescribed notice.

- Commerce's explicit authority to set policies, individualized remittance agreements, and rules tends to reduce ambiguity, which is a positive from a compliance and E&O risk perspective for title agents, even though it may mean some incremental procedure updates and training.

### **Specific Benefits and Drawbacks**

#### Benefits to consumers

- Better funded and more stable foreclosure-prevention infrastructure (counseling, legal aid, mediation) increases the likelihood of loan mods, repayment plans, or orderly exits instead of abrupt trustee's sales.
- The feasibility study for a state homeowner assistance fund opens the door to limited direct financial relief for borrowers who have exhausted procedural tools but are still close to salvageable, which is targeted at those in the deepest distress.

#### Implications for title / escrow / insurers

- A predictable, flat per-loan fee avoids complex tiered assessments that would be harder to administer at scale; this predictability is generally favorable for large title/escrow platforms handling high volumes.
- The downside is mainly administrative: ensuring the fee and notice are correctly handled on every covered transaction, monitoring exemptions (reverse mortgages age threshold, chattel classifications, housing-program first-lien rule), and aligning TRID/state disclosures, which increases compliance overhead but not to a level that typically affects title premium structures.

### **Bottom Line for Your Practice**

- From a risk-management lens, supporting a stronger Foreclosure Fairness/mediation system tends to reduce chaotic, last-minute foreclosure disputes that can spill into title claims or post-sale litigation, which is indirectly beneficial for title insurers and trustees.
- For a title/escrow shop, the bill is more of a compliance and workflow item than an economic hit: modest extra process and disclosure, but in exchange for a more robust, state-funded foreclosure-prevention ecosystem that stabilizes the homeowner base your files ultimately depend on.