

MFA's interpretation of this amendment is that it only affects the equity in a homestead and not any outstanding mortgage that had been previously placed on the property. For example, if a person declares bankruptcy, but continued to maintain his/her mortgage payments, the insolvency proceedings could not force the homeowner to liquidate that equity as part of those proceedings to the extent the amendment would allow. However, if the homeowner failed to continue to make his/her mortgage payments, foreclosure proceedings could result as part of the normal process of the lending institution, regardless of bankruptcy proceedings.

There is the possibility that delinquency rates on homestead mortgages in bankruptcy would decline as a result of this bill. If a person filing bankruptcy is aware that his homestead was exempt to this extent, he may continue to keep his mortgage in good standing throughout those proceedings.

RELATIONSHIP

HB 363 and SB 83 relate to Senate Bill 684. Both bills are identical and create The Homestead Bankruptcy Exception Act. The proposed statute defines a homestead as the primary residence of a debtor. The measure states that for purposes of bankruptcy proceedings, a debtor's homestead is exempt from processes of bankruptcy courts, and no judgment, decree or execution may be a lien against it in bankruptcy court, except for payment of taxes, tax assessments or obligations contracted for the purchase. The bill further protects the rights of the home improvement providers to secure a means for recovery of their costs through the lien process.

LMK/sb/njw