

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 940 (Substitute S-1)
Sponsor: Senator Dick Posthumus
Committee: Commerce and Technology

Date Completed: 5-23-90

RECEIVED

JUN 28 1990

MAY 28 1990

SUMMARY OF SENATE BILL 940 (Substitute S-1):

The bill would create a new act to provide that a future advance mortgage that secured a future advance would have priority with respect to the future advance as if the future advance were made on the date the future advance mortgage was recorded. Further, if a recorded mortgage had been or would be amended to become a future advance mortgage, it would have priority with respect to a future advance secured by the mortgage as if the future advance were made on the date the amendment was recorded. The bill would not give a mortgage priority over another mortgage that was recorded prior to October 1, 1990, to the extent that the other mortgage would have had priority before that date.

"Future advance" would be defined as "an indebtedness or other obligation that is secured by a mortgage and arises or is incurred after the mortgage has been recorded, whether or not the future advance was obligatory or optional on the part of the mortgagee". "Future advance mortgage" would be defined as a mortgage that secured a future advance and was recorded either prior to or after the effective date of the bill. If a recorded mortgage were amended to secure a future advance arising after the amendment, the mortgage would become a future advance mortgage on the date the amendment was recorded.

The bill specifies that it would not apply to a mortgage governed by provisions in the Construction Lien Act that pertain to the priority of construction liens or in Public Act 122 of 1941 that pertain to taxes as liens.

The bill would take effect October 1, 1990.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: J. Schultz

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