

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	8 - 0 - 1
Yeas:	Barker, Bonamici, Cameron, Komp, Krieger, Read, Whisnant, Macpherson
Nays:	0
Exc.:	Flores
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	5/8

WHAT THE MEASURE DOES: Establishes new requirements for service on a property occupant of a notice of non-judicial foreclosure of a trust deed. Requires trustee: (1) to attempt to personally serve the occupant three times, with each attempt occurring at least two days after the attempt before it; (2) to post a copy of the notice in a “conspicuous place on the property” each time personal service fails; and (3) to mail the notice to the occupant after the third failed attempt.

ISSUES DISCUSSED:

- Difficulties of trustees in complying with personal service requirement
- Effect of failure to serve property occupant
- Mechanics of a non-judicial foreclosures
- Notice to owners of property and lien-holders
- Practices in other jurisdictions

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 86.750 requires a trustee to serve an occupant personally with notice of a non-judicial foreclosure of a trust deed and intent to sell the property. There are times when personal service is difficult, for example, if the occupant is rarely home or uses the property for illegal purposes. In those cases, the trustee must seek a judicial foreclosure, which is more expensive and time-consuming than a non-judicial foreclosure. SB 301 A provides a less rigid approach to service of a non-judicial foreclosure, which is similar to that used in Idaho.