

REVENUE: No revenue impact

FISCAL: No fiscal impact

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	4 - 0 - 1
<b>Yeas:</b>	Beyer, Kruse, Prozanski, Burdick
<b>Nays:</b>	0
<b>Exc.:</b>	Walker
<b>Prepared By:</b>	Matt Kalmanson, Counsel
<b>Meeting Dates:</b>	1/24, 3/14

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**WHAT THE MEASURE DOES:** Establishes that service of a notice of a non-judicial foreclosure of a trust deed on the occupant of the property is effected if the trustee: (1) attempts to serve the occupant personally three times, with each attempt occurring at least two days after the attempt before it; (2) posts a copy of the notice in a “conspicuous place on the property” each time personal service fails; and (3) mails the notice to the occupant after the third failed attempt. Modifies requirement that the trustee publish a copy of the notice “in a newspaper of general circulation” to allow a trustee to publish the notice in a newspaper “selected by the trustee that is published in that county.” Establishes that the trustee’s selection of a newspaper is not subject to judicial review and is not grounds for setting aside a foreclosure or awarding damages. Provides that ORS 193.020(2) and (4), which state that notice by publication must occur in a newspaper most likely to give actual notice, do not apply in this context.

**ISSUES DISCUSSED:**

- Difficulties of trustees in complying with personal service requirement
- Effect of failure to serve the occupant
- Difference between judicial and non-judicial foreclosures
- Practice of other jurisdictions
- Purpose of publication requirement

**EFFECT OF COMMITTEE AMENDMENT:** Deletes portion of bill concerning service by publication, judicial review of trustee’s selection of publication, and application of ORS 193.020(2) and (4). Restores original text requiring publication of notice in a newspaper of general circulation in the counties where property is located.

**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 provides a less rigid approach similar to that adopted by other states.