

REVENUE: No revenue impact

FISCAL: No fiscal impact

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<b>Action:</b>	Do Pass
<b>Vote:</b>	8 - 0 - 1
<b>Yeas:</b>	Barker, Bonamici, Cameron, Komp, Krieger, Read, Whisnant, Macpherson
<b>Nays:</b>	0
<b>Exc.:</b>	Flores
<b>Prepared By:</b>	Matt Kalmanson, Counsel
<b>Meeting Dates:</b>	5/16

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**WHAT THE MEASURE DOES:** Permits a creditor to execute on a judgment of foreclosure, even when the owner of the secured property is deceased. Establishes that if the money received from a foreclosure is insufficient to satisfy the debt, the trustee may bring a claim against the estate in a manner consistent with Oregon probate law.

**ISSUES DISCUSSED:**

- Interaction between Oregon probate statutes and foreclosures on property
- Impact on creditor when debtor dies before execution of foreclosure judgment
- Impact on heirs of decedent
- Discretion of creditor to seek deficiency if otherwise allowed by law
- Current practice

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** In 1989, the legislature overhauled Oregon's probate statutes. ORS 18.312 prohibits the execution of judgments through the sale of property of a deceased party, in order to require general judgment creditors to participate in the probate process and eliminate the "first-come, first-served" dismembering of a creditor's estate. It is not clear, however, whether the legislature intended to change the rights of creditors to execute on a judgment of foreclosure against property owned by a decedent. SB 302 A would allow creditors whose claims are secured by property to foreclose on that property, even when the owner is deceased. This is current practice and is not intended to change to the existing rights of creditors or the estate of a deceased debtor.