

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	7 - 0 - 1
Yeas:	Berger, Edwards C., Garrard, Gelser, Nolan, Read, Roblan
Nays:	0
Exc.:	Jenson
Prepared By:	Jerry Watson, Administrator
Meeting Dates:	5/15, 5/27, 5/29

WHAT THE MEASURE DOES: Provides that foreclosure and sale by trustee of residential property precludes further action for a deficiency against homeowner on any additional trust deed for the property given as security for an obligation, with exceptions. Expands debt protection to include action against homeowner for debt owed to beneficiary in the residential trust deed that was subject to foreclosure, that was incurred to secure the residential trust deed; and other debt incurred to finance a portion of the purchase price of the foreclosed property. Removes prohibition on action against homeowner after foreclosure if person bringing action did not foreclose, did not receive proceeds from foreclosure, and was not the trustee or beneficiary in the residential trust deed that is foreclosed. Requires trustee to provide amended notice of sale upon registered or certified request by any member of the Oregon Bar Association. Permits such notice to be accomplished via internet posting of copy of the amended notice of sale. Declares emergency; effective on passage.

ISSUES DISCUSSED:

- Provisions of the measure
- Intent of the measure to target unfair practice of some lenders, who arrange two mortgages to reach purchase price; get the property at foreclosure; then bring a second claim after foreclosure on the second mortgage
- Not applicable to later refinancing by homeowner; only applicable to original financing of purchase price of home
- Not applicable to subsequent lender/creditor that is not affiliated with the originating lender/creditor, who obtains one of the mortgages and does not participate in or benefit from foreclosure
- Similar laws in effect in Arizona and California

EFFECT OF COMMITTEE AMENDMENT: Expands debt protection to include action against homeowner for debt owed to beneficiary in the residential trust deed that was subject to foreclosure, that was incurred to secure the residential trust deed; and other debt incurred to finance a portion of the purchase price of the foreclosed property. Removes prohibition on action against homeowner after foreclosure if person bringing action did not foreclose, did not receive proceeds from foreclosure, and was not the trustee or beneficiary in the residential trust deed that is foreclosed. Requires trustee to provide amended notice of sale upon registered or certified request by any member of the Oregon Bar Association. Permits such notice to be accomplished via internet posting of copy of the amended notice of sale.

BACKGROUND: When a homebuyer does not qualify for a single loan to cover the purchase price of a home, there is an alternative way to structure financing called an "80/20" loan, where the purchase price is secured by two trust deeds. Recent court cases have permitted junior creditors to sue for remaining deficiencies after the property has been sold at foreclosure. House Bill 3004A, as amended, is intended to preclude suits against homeowners for deficiencies remaining on additional notes secured by the property after the property has been foreclosed.

6/2/2009 8:45:00 AM

This summary has not been adopted or officially endorsed by action of the committee.