

**A-Engrossed**  
**House Bill 3657**

Ordered by the House February 12  
Including House Amendments dated February 12

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT ACCOUNTABILITY

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits owner of foreclosed residential real property from neglecting real property during periods of vacancy. Permits local government to assess civil penalty for each day during which owner fails to remedy conditions of neglect.

Sunsets January 2, 2014.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

Relating to the neglect of foreclosed real property; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. (1) As used in this section:**

**(a) "Foreclosed residential real property" means residential property, as defined in ORS 18.901, that an owner obtains as a result of:**

**(A) Foreclosing a trust deed on the residential property;**

**(B) Receiving a judgment that forecloses a lien on the residential property; or**

**(C) Purchasing the residential property at a trustee's sale or a sheriff's sale.**

**(b) "Neglect" means to fail or a failure to maintain the buildings, grounds or appurtenances or monitor the condition of foreclosed residential real property in such a way as to allow:**

**(A) Excessive growth of foliage that diminishes the value of adjacent property;**

**(B) Trespassers or squatters to remain on the foreclosed residential real property or in a structure located on the foreclosed residential real property;**

**(C) Mosquito larvae or pupae to grow in standing water on the foreclosed residential real property; or**

**(D) Other conditions on the foreclosed residential real property that cause or contribute to causing a public nuisance.**

**(c) "Owner" means a person, other than a local government, named in a trust deed or other instrument as the legal owner of foreclosed residential real property.**

**(2) An owner may not neglect the owner's foreclosed residential real property during any period in which the foreclosed residential real property is vacant.**

**(3) Subject to subsection (4) of this section, a local government may assess a civil penalty against an owner if the local government finds that the owner's foreclosed residential real property is located within the local government's jurisdiction and that the owner has violated**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 subsection (2) of this section.

2 (4) A local government may assess a civil penalty under subsection (3) of this section only  
3 after the local government:

4 (a) Notifies the owner in writing that the local government has determined that the  
5 owner has neglected foreclosed residential real property located within the local  
6 government's jurisdiction, and in the notice:

7 (A) Describes the conditions of neglect that formed the basis for the determination;

8 (B) States that the local government may assess a civil penalty against the owner in an  
9 amount the local government specifies in the written notice and;

10 (C) Identifies the date by which the owner must begin to remedy the conditions of neglect  
11 that formed the basis for the determination and the date by which the owner must complete  
12 the remediation; and

13 (b) Mails the notice to the address provided for the owner in the trust deed or other in-  
14 strument that is evidence of legal ownership of the foreclosed residential real property or,  
15 if the address is not current, posts the notice in a conspicuous location on the foreclosed  
16 residential real property.

17 (5)(a) Before assessing a civil penalty under this section, a local government shall:

18 (A) Allow an owner not less than 30 days to remedy the conditions of neglect that formed  
19 the basis of the determination, unless the local government makes a determination under  
20 paragraph (b) of this subsection; and

21 (B) Provide the owner with an opportunity to contest the assessment at a hearing. The  
22 owner must contest the assessment within 10 days after the date on which the local gov-  
23 ernment notifies the owner of the assessment.

24 (b) If the local government determines that a specific condition of the foreclosed resi-  
25 dential real property constitutes a threat to public health or safety, the local government  
26 may require an owner to remedy the specific condition in less than 30 days, provided that  
27 the local government specifies in the written notice the date by which the owner must  
28 remedy the specific condition.

29 (c) Subject to the provisions of this section, a local government may specify in the writ-  
30 ten notice a different date by which an owner must remedy separate conditions of neglect  
31 on the foreclosed residential real property.

32 (6)(a) A local government may not assess a civil penalty under this section on or before  
33 the date specified in the written notice for the owner to complete the remediation. A civil  
34 penalty under this section may not exceed \$150 for each day during which the owner fails to  
35 remedy the conditions that formed the basis of the determination.

36 (b) In determining the amount of a civil penalty assessed under this section, a local  
37 government shall take into account an owner's timely and good faith efforts to remedy the  
38 conditions that formed the basis of the determination.

39 (c) A local government may not assess a civil penalty under both the provisions of this  
40 section and the provisions of a local ordinance or regulation.

41 (7) A local government shall direct moneys received from civil penalties assessed under  
42 this section for the purpose of establishing or continuing a nuisance abatement program.

43 (8) Except as provided in subsection (6)(c) of this section, this section does not preempt  
44 local government ordinances or regulations.

45 **SECTION 2.** Section 1 of this 2010 Act is repealed January 2, 2014.

1        **SECTION 3. This 2010 Act being necessary for the immediate preservation of the public**  
2        **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**  
3        **on its passage.**

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