

House Bill 3657

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 **as introduced**.

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

1
2 Relating to the neglect of foreclosed real property; and declaring an emergency.

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

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

5 (a) **"Foreclosed residential real property"** means residential property, as defined in ORS
6 **18.901, that an owner obtains as a result of:**

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

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

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

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

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

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

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

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

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

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

24 (3) **Subject to subsection (4) of this section, a local government may assess a civil penalty**
25 **against an owner if the local government finds that the owner's foreclosed residential real**
26 **property is located within the local government's jurisdiction and that the owner has violated**
27 **subsection (2) of this section.**

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

30 (a) **Notifies the owner in writing that the local government has determined that the**

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 owner has neglected foreclosed residential real property located within the local
2 government's jurisdiction, and in the notice:

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

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

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

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

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

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

17 (B) Provide the owner with an opportunity to contest the assessment at a hearing.

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

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

26 (6)(a) A local government may not assess a civil penalty under this section on or before
27 the date specified in the written notice for the owner to complete the remediation. A civil
28 penalty under this section may not exceed \$1,000 for each day during which the owner fails
29 to remedy the conditions that formed the basis of the determination.

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

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

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

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

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

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