

# House Bill 2957

Sponsored by Representative FREDERICK; Representatives BARKER, DEMBROW, GELSER, GREENLICK, KOTEK, NATHANSON (Pre-session filed.)

## 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.

Sunset 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, other than a local government, named in a trust deed or**  
21 **other instrument as the legal 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:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 **SECTION 2.** Section 1 of this 2011 Act is repealed January 2, 2014.

43 **SECTION 3.** This 2011 Act being necessary for the immediate preservation of the public  
 44 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
 45 on its passage.

