

House Bill 3639

Sponsored by Representatives FREDERICK, KOTEK; Representatives BAILEY, BARKER, BARNHART, BEYER, BUCKLEY, CANNON, CLEM, COWAN, DEMBROW, DOHERTY, GARRETT, GELSER, GREENLICK, HARKER, HOLVEY, HOYLE, HUNT, KOMP, MATTHEWS, NATHANSON, NOLAN, READ, J SMITH, TOMEI, WITT

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.

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:**

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

4
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:**

11 (A) **To fail or a failure to maintain the buildings, grounds or appurtenances of foreclosed**
12 **residential real property in such a way as to allow:**

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

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

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

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

20 (B) **To fail or a failure to monitor the condition of foreclosed residential real property**
21 **by inspecting the foreclosed residential real property at least once every 30 days with suffi-**
22 **cient attention so as to prevent, or to identify and remedy, a condition described in subpar-**
23 **agraph (A) of this paragraph.**

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

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

28 (b) **An owner shall provide the owner's name or the name of an agent of the owner and**

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 telephone number or other means for contacting the owner or the agent to:

2 (A) The neighborhood association for the neighborhood in which the foreclosed residen-
3 tial real property is located; or

4 (B) An official that the local government designates to receive the information described
5 in this paragraph.

6 (c) An owner shall post a durable notice in a conspicuous location on the foreclosed resi-
7 dential real property that lists a telephone number for the owner or for the local govern-
8 ment that a person may call to report a condition of neglect. The owner shall replace the
9 notice if the notice is removed from the foreclosed residential real property during a period
10 when the foreclosed residential real property is vacant.

11 (d) An owner or an agent of the owner shall identify the owner of the foreclosed resi-
12 dential real property to the local government and shall provide to, and maintain with, the
13 local government current contact information during a period when the foreclosed residen-
14 tial real property is vacant.

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

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

21 (a) Notifies the owner in writing that the local government has determined that the
22 owner has violated a provision of subsection (2) of this section and, in the notice:

23 (A) Describes the conditions of neglect that formed the basis for the determination if the
24 local government determines that the owner violated subsection (2)(a) of this section;

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

27 (C) For violations of subsection (2)(a) of this section, identifies the date by which the
28 owner must begin to remedy the conditions of neglect that formed the basis for the deter-
29 mination and the date by which the owner must complete the remediation; and

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

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

35 (A) Allow an owner not less than 30 days to remedy a violation of subsection (2)(a) of this
36 section, unless the local government makes a determination under paragraph (b) of this
37 subsection; and

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

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

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

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

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

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

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

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

17 SECTION 2. This 2011 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
19 on its passage.
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