

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	9 - 0 - 1
Yeas:	Barnhart, Berger, Beyer, Esquivel, Garrett, Holvey, Wingard, Kotek, Olson
Nays:	0
Exc.:	Freeman
Prepared By:	Cheyenne Ross, Administrator
Meeting Dates:	3/5

WHAT THE MEASURE DOES: Requires beneficiary under residential trust deed to notify and enter into mediation with homeowner, for purpose of agreeing to foreclosure avoidance measures. Exempts individuals, financial institutions, mortgage bankers and licensees, from mediation requirement if specific showing made. Directs Attorney General to appoint mediation service provider to coordinate mediation program. Directs Attorney General to enter into agreement to pay mediation service provider from proceeds of fee on notice of default. Directs Attorney General to set mediation fee schedule by rule. Specifies homeowner and beneficiary share cost of mediation and that homeowner's portion not exceed \$200. Permits mediator to waive homeowner's portion of fee in accordance with rules promulgated by Attorney General. Requires homeowner who confirms mediation to consult with housing counselor prior to scheduled mediation. . Requires homeowner to notify beneficiary if mediation cancelled. Provides mediator discretion to determine if good cause exists to permit beneficiary to appear by any means other than in-person. Deems distance alone insufficient to constitute good cause. Requires mediator to complete and provide certificate of compliance to homeowner, beneficiary, and Attorney General. Requires beneficiary to record certificate with county before undertaking foreclosure. Requires beneficiary to notify homeowners of ineligibility for foreclosure avoidance, and of noncompliance with terms of foreclosure avoidance, as applicable. Sets forth what constitutes proper notice and service. Adds proper notice and homeowner's noncompliance with foreclosure avoidance to the list of conditions that must be met prior to foreclosure. Provides civil penalties for failure to comply. Requires separate notice of mediation 60 days prior to notice of foreclosure sale, when foreclosure is undertaken by a beneficiary that is required to meet with homeowner. Changes deadline for notice to be given of postponement of foreclosure sale, from 30 days to 15 days prior to new sale date. Requires homeowner be notified of sale postponement. Permits one postponement without notice, if not for more than two days. Allows homeowner at risk but not yet in default to request mediation. Requires \$100 fee upon beneficiary or trustee filing notice of default. Exempts individuals, financial institutions, mortgage bankers and licensees, from fee if specific showing made. Declares emergency, effective on passage, with operative date 91 days after effective date.

ISSUES DISCUSSED:

- Provisions of amendment

EFFECT OF COMMITTEE AMENDMENT: Permits mediator to waive homeowner's portion of fee in accordance with rules promulgated by Attorney General. Changes "beneficiary" to "financial institution" (as defined in ORS 706.008) for purposes of exemption from mediation requirement. Expands exemption from mediation requirement to include mortgage bankers and licensees as defined in ORS 86A.100 and 725.010, respectively. Modifies language providing for exemption and clarifies how exemption may be sought for 2012 calendar year. Changes deadline that homeowner is required to confirm mediation, from 15 to 30 days before the mediation date. Requires homeowner who confirms mediation to consult with housing counselor prior to scheduled mediation. Requires homeowner to notify beneficiary if mediation cancelled. Provides mediator discretion to determine if good cause exists to permit beneficiary to appear by any means other than in-person. Deems distance alone insufficient to constitute good cause. Requires beneficiary to notify homeowners of ineligibility for foreclosure avoidance, and of noncompliance with terms of foreclosure avoidance, as applicable. Sets forth what constitutes proper notice and service. Adds proper notice and

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

homeowner's noncompliance with foreclosure avoidance to the list of conditions that must be met prior to foreclosure. Provides civil penalties for failure to comply. Requires separate notice of mediation 60 days prior to notice of foreclosure sale, when foreclosure is undertaken by a beneficiary that is required to meet with homeowner. Changes deadline for notice to be given of postponement of foreclosure sale, from 30 days to 15 days prior to new sale date. Permits one postponement without notice, if not for more than two days.

BACKGROUND: Oregon foreclosure law changed with Senate Bill 628 (2011), to make more information about possible alternatives available to homeowners facing foreclosure, and bring lenders and homeowners together to review loan modification opportunities. Senate Bill 628 (2011) was repealed January 1, 2012.

Despite a nearly 40 percent drop in foreclosure filings in Oregon and nationally in 2011, news reports indicate that foreclosures are expected to increase in 2012 as lenders proceed with foreclosures that were stalled because of legal uncertainty in the non-judicial foreclosure process. Through the second quarter of 2011, nearly 40,000 Oregon homeowners were in foreclosure or seriously delinquent, representing one out of every eleven homeowners. At the close of 2011, Oregon ranked 14th nationwide in the percent of homeowners in foreclosure. Data suggests that 120,000 Oregon homeowners are \$4.7 billion underwater.

In early February, the Oregon Attorney General announced that he will sign on to a multi-state agreement with five of the nation's largest banks that penalizes banks engaged in wrongful foreclosure practices and offers relief to homeowners. The settlement will provide \$30 million to Oregon and as much as \$200 million in relief to Oregon homeowners. The settlement also sets standards for how banks conduct foreclosures. The five banks in the settlement are Bank of America Corp., JPMorgan Chase & Co., Citigroup Inc., Wells Fargo & CO., and Ally Financial Inc. A federal judge must still approve the agreement.