

**REVENUE:** No revenue impact

**FISCAL:** Minimal fiscal impact, no statement issued

---

**Action:** Do Pass as Amended and Be Printed Engrossed

**Signers of the Report:** Sen. Boquist and Sen. George

**Prepared By:** Jan Nordlund, Administrator

**Meeting Dates:** 2/6, 2/13

---

**WHAT THE MEASURE DOES:** Requires beneficiary to determine if homeowner qualifies for foreclosure avoidance measure or if homeowner has not complied with the agreed upon terms of foreclosure avoidance measure. Requires beneficiary to provide homeowner notice that explains determination before foreclosure sale. Requires beneficiary to record affidavit stating beneficiary complied with requirements. Requires beneficiary to mail copy of notice and affidavit to Department of Justice. Requires trustee to give homeowner notice if sale is postponed. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Legislation in other states addressing foreclosure process
- Number and trend of foreclosures
- History of housing industry pulling the economy out of a recession
- Whether small banks and credit unions should be subject to provisions
- Unfair Trade Practices Act
- Recent settlement with five largest banks
- Recent rules issued by Attorney General for all Oregon lender to follow
- Frustration of homeowners trying to modify loan while foreclosure proceeds

**EFFECT OF COMMITTEE AMENDMENT:** Deletes provision that makes violation an unfair trade practice.

**BACKGROUND:** Oregon foreclosure law was changed in 2009 with passage of Senate Bill 628, which was primarily intended to ensure that homeowners facing foreclosure receive more information about options and to bring lenders and homeowners together to review loan modification opportunities. The provisions established by Senate Bill 628 (2011) expired on January 1, 2012.

Current state law allows the foreclosure process to proceed on a dual-track with discussions of loan modifications, short sales, loan forbearance, or other foreclosure avoidance measures. As a result, a foreclosure avoidance measure could still be under negotiation when a foreclosure sale occurs.

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 14<sup>th</sup> 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.

2/15/2012 8:55:00 AM

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