

# House Bill 4138

Sponsored by Representative FREDERICK; Representatives BAILEY, BUCKLEY, DEMBROW, DOHERTY, GELSER, HARKER, HOYLE, HUNT, KENY-GUYER, KOMP, KOTEK, MATTHEWS, NATHANSON, READ, J SMITH, TOMEI, WITT, Senator MONNES ANDERSON (Presession 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.

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:**

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

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

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

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

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

14 (3) Subject to subsections (4) to (6) of this section, a local government may assess a civil  
15 penalty against an owner if the local government finds that the owner's foreclosed residential  
16 real property is located within the local government's jurisdiction and that the owner has  
17 violated subsection (2) of this section.

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

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

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

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

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

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

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

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

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

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

45 (c) Subject to the provisions of this section, a local government may specify in the writ-

1 ten notice a different date by which an owner must remedy separate conditions of neglect  
2 on the foreclosed residential real property.

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

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

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

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

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

16 SECTION 2. This 2012 Act being necessary for the immediate preservation of the public  
17 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect  
18 on its passage.

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