

**PRELIMINARY STAFF MEASURE SUMMARY****CARRIER:**

House Committee on Rules

**REVENUE: No revenue impact****FISCAL: No fiscal impact****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Erin Seiler, Administrator**Meeting Dates:** 6/6, 6/12

**WHAT THE MEASURE DOES:** Requires beneficiary of a residential trust deed and grantor (homeowner) participate in resolution conference in attempt to negotiate and agree upon foreclosure avoidance measures prior to beneficiary foreclosing on residential trust deed. Requires service provider issue certificate of compliance to beneficiary upon completion of resolution conference and specifies beneficiary must present current certificate of compliance to county clerk or court, as appropriate, when initiating foreclosure. Requires beneficiary initiate request for resolution conference. Requires homeowner submit documents to service provider prior to settlement conference and pay fee of not more than \$200 for conference facilitator's services. Specifies documentation beneficiary must supply to service provider prior to conference and specifies beneficiary pay fee as determined by rule. Specifies conditions under which homeowner may request resolution conference: 1) beneficiary has not requested conference, 2) beneficiary has not filed notice of default or commenced judicial foreclosure suit, and 3) homeowner has obtained letter from housing counselor attesting to delinquency or financial hardship of homeowner. Details duties of service provider in providing conference and reporting requirements. Requires beneficiary or agent to appear in person and be authorized to negotiate on beneficiary's behalf. Exempts certain beneficiaries with fewer than 100 foreclosure actions per year from resolution conference requirement. Authorizes Attorney General to develop rules for fees, information required from beneficiaries, grantors, and service providers, and enter into agreements with service provider. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Loan Refinance Assistance Pilot Project (L-Wrap Program) in Central Oregon
- Short sale process that allows home owner to stay in home
- Negative equity that exists in communities within residential home market
- L-Wrap Program acts as revolving home fund by allowing L-Wrap Program at as lender to homeowner at lower value of restructured loan
- Reason for changing definition of residential trust deed
- Determination of residential trust deed made at time of loan
- Clarification of Senate Bill 588 (2013) to require unexpired certificate be only needed at time of filing

**EFFECT OF COMMITTEE AMENDMENT:**

-4 amendment: Replaces measures.

- Section 2: This section addresses short sales, when they are negotiated as alternative to foreclosure between beneficiary and non-profit purchaser. Prohibits beneficiary from requiring non-profit purchaser at short sale to sign "arm's length affidavit" - promising not to sell or rent back to original owner of home. Creates exceptions to allow beneficiary to continue requiring these affidavits if they had not gotten adequate notice of the non-profit's intention ahead of time, if homeowner does not cooperate with appraisal process, or if lender's contractual or other legal obligation requires lender to have these affidavits.
- Section 3: Changes definition of term "residential trust deed."

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

- Section 4: Clarifies that lender’s certificate of compliance that must be filed prior to non-judicial foreclosure must be unexpired at time of recording of notice of default. It need not be unexpired for entire length of the proceeding, just when proceeding begins.

**BACKGROUND:** In 2012, the Legislative Assembly enacted Senate Bill 1552, establishing the residential Foreclosure Avoidance Mediation Program under the direction of the Attorney General. That legislation requires a beneficiary under a residential trust deed to enter into mediation with a homeowner who has received a notice of foreclosure. The bill also specified steps for the homeowner to request mediation with a beneficiary when the homeowner is at risk of foreclosure. The mediation program only applied to foreclosures through notice and sale, a process referred to as “non-judicial” foreclosure. News reports suggest that in recent months, beneficiaries have largely halted non-judicial foreclosures and have instead opted to file suit to foreclose residential trust deeds in court, which is generally referred to as “judicial” foreclosure.

House Bill 3389 expands the foreclosure mediation program to include judicial foreclosures and makes changes to the structure of the mediation program.