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Senator Chip Shields, Chair
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Senator Larry George, Vice Chair
Sen.LarryGeorge@state.or.us

Senator Herman Baertschiger
sen.hermanbaertschiger@state.or.us

Senator Laurie Monnes Anderson
Sen.LaurieMonnesAnderson@state.or.us

Senator Floyd Prozanski
sen.floydprozanski@state.or.us

Channa Newell, Committee Administrator
channa.newell@state.or.us

Re: SB 558

Dear Chairman Shields, Vice Chair George, and Members of the Consumer Protection and General Government Committee,

I am writing today on behalf of Phil Goldsmith and myself in support of SB 558. A substantial portion of our practice is foreclosure defense and, in our view, this bill is absolutely vital to making the promise of last year's mediation bill a reality for Oregon homeowners.

As you know, shortly after SB 1552 became effective last year, mortgage companies stopped bringing non-judicial foreclosures of residential trust deeds and instead began to foreclose judicially. As a result, Oregonians lost an important protection that would have helped them avoid foreclosure.

Almost every single judicial foreclosure case that Phil and I have counseled clients on since July 2012 could have been avoided if the lender and borrower had gone through mediation before the complaint was filed. These cases include:

a borrower who had made three payments under his temporary loan modification plan. When his mortgage servicer changed, the new servicer did not recognize his temporary modification, lost several of his applications for a new modification and then filed a foreclosure complaint;

a borrower who had applied for a loan modification but had not followed up after her servicer did not respond to her application. Once she was served with a foreclosure complaint and after retaining us, she visited a housing counselor and re-applied for a modification;

a borrower who will likely qualify for a reverse mortgage;

a borrower who was attempting to sell her property at a short sale and received an offer a few weeks after she was served with the foreclosure complaint.

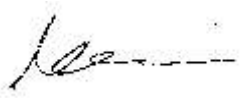
Before the switch to judicial foreclosures, we would routinely counsel clients who had a trustee sale scheduled and who we believed were good candidates for a loan modification to see a housing counselor immediately. We would recommend that they retain us only if they were unable to get the sale continued while their modification requests were pending.

Now, because a foreclosure plaintiff can get a default judgment within 30 days of service of the complaint, we must advise homeowners that they should retain an attorney in order to prevent a default.

The clients mentioned above were lucky in that they were able to pay for a lawyer, are located in an area where there are a pool of attorneys specializing in foreclosure defense and are sophisticated enough to find an attorney. Many Oregonians who are served with judicial foreclosure complaints do not have all of these advantages and may well lose a home that they would have been able to save had the mortgage company participated in mediation.

Finally, as you can see from the examples above, dual tracking is still being practiced by mortgage companies. “Dual-tracking” occurs when a mortgage company simultaneously pursues foreclosure and a foreclosure avoidance measure. Homeowners often believe that the foreclosure is on hold while they pursue a loan modification or a short sale and find out after the foreclosure has occurred that this was not the case. Typically, this is the result of poor communication between the department directing the foreclosure and the department evaluating the homeowner for loss mitigation. Requiring mortgage companies to participate in mediation prior to commencing any foreclosure action would alleviate the threat of dual-tracking and ensure that both the homeowner and the mortgage company are able to fully explore all viable options of avoiding foreclosure.

Very truly yours,



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