

REVENUE: Minimal revenue impact, no statement issued

FISCAL: Fiscal statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 4 - 0 - 1

Yeas: Baertschiger, George, Prozanski, Shields

Nays: 0

Exc.: Monnes Anderson

Prepared By: Channa Newell, Administrator

Meeting Dates: 2/27, 3/20, 4/3, 4/5

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. Exempts beneficiary who commences 175 or fewer foreclosure actions per year from resolution conference requirement, including conference requested by “at risk” homeowners. Requires beneficiary initiate request for resolution conference and specifies information included in request; provides process whereby homeowners at risk of default may petition for resolution conference prior to foreclosure proceedings. Requires service provider send notice to homeowner of request for resolution and include range of dates for resolution conference, with subsequent notice of specific date, time, and location within 5 days of receiving payment of fee from homeowner. Requires homeowner consult with housing counselor before attending resolution conference. Requires postponed conferences be rescheduled for date within 30 days of original date. Allows beneficiary with authority to negotiate and commit to foreclosure avoidance measure to participate via remote communication, so long as agent for beneficiary is in room. Allows homeowner to have attorney, housing counselor, or both present, but requires homeowner be present in person unless compelling circumstances exist to prevent attendance. Specifies service provider must 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. Specifies Attorney General must enter into agreement with service provider, enter into agreement for information technology goods or services, prescribe qualifications and training of facilitators, specify procedures for conducting resolution conferences and to adopt rules as necessary. Specifies Foreclosure Avoidance Fund be used to pay service provider and information technology costs. Clarifies beneficiary is not under affirmative duty, whether participating in resolution conference or not, to determine if homeowner is eligible for foreclosure avoidance measure. Requires beneficiary provide plain-language notice to homeowner if beneficiary determines homeowner is ineligible for foreclosure avoidance measure or homeowner has not complied with terms of measure. Aligns liability and confidentiality of facilitator with current law for mediators. Specifies certain provisions of bill not subject to private right of action under Unlawful Trade Practices Act, but provides enforcement authority for Attorney General within Unlawful Trade Practices Act. Requires Attorney General publish draft rules at least 30 days before operative date. Sets operative date 61 days after effective date. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Senate Bill 1552 (2012)
- Effects and results of foreclosure mediation program
- Rise in judicial foreclosures, which have no pathway for resolution conference
- Outcomes of work groups and amendment process

EFFECT OF COMMITTEE AMENDMENT: Increase exemption to beneficiary who commences 175 or fewer actions in prior year. Clarifies that beneficiary who has filed an exemption is not required to attend resolution conference when requested by “at-risk” grantors. Requires notice from service provider include range of dates for resolution conference and requires specific notice of date, time, and location within 5 days of receiving payment of fee from grantor. Requires grantor consult with housing counselor before attending resolution conference unless such

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

appointment cannot be obtained. Caps beneficiary's fee at \$600, to be paid to Attorney General for Foreclosure Avoidance Fund. Requires beneficiary submit copies of residential trust deed, promissory note certified by beneficiary as true copy, and itemized statement showing amount grantor owes, broken into principal, interest, fees, and charges, amount to cure default, and document that identifies input values for net present value model that beneficiary used. Requires that if conference postponed, new conference must be within 30 days after original date. Aligns liability and confidentiality of facilitator with current law for mediators. Allows beneficiary with authority to negotiate and commit to foreclosure avoidance measure to participate via remote communication, so long as agent for beneficiary is in room. Allows grantor to have attorney, housing counselor, or both present for representation of grantor, but requires grantor be present in person unless compelling circumstances exist to prevent attendance. Expands methods by which request for mediation may be sent to include facsimile. Specifies Attorney General must enter into agreement with service provider, enter into agreement for information technology goods or services, prescribe qualifications and training of facilitators, specify procedures for conducting resolution conferences, and to adopt rules as necessary. Specifies Foreclosure Avoidance Fund be used to pay service provider and information technology provider. Clarifies beneficiary is not under affirmative duty, whether participating in resolution conference or not, to determine if homeowner is eligible for foreclosure avoidance measure. Requires beneficiary provide plain-language notice to homeowner if beneficiary determines homeowner is ineligible for foreclosure avoidance measure or homeowner has not complied with terms of measure." Provides technical amendments to ORS 646.638. Specifies certain provisions of bill not subject to private right of action under Unlawful Trade Practices Act, but provides enforcement authority for Attorney General within the Unlawful Trade Practices Act. Requires Attorney General publish draft rules at least 30 days before operative date. Sets operative date 61 days after effective date. Declares emergency, effective on passage.

BACKGROUND: In the 2012 session, the Oregon Legislature passed Senate Bill 1552, establishing the residential Foreclosure Avoidance Mediation Program under the direction of the Attorney General. Senate Bill 1552, now Oregon Chapter 112, Oregon Laws 2012, requires the beneficiary of a residential trust deed to enter into mediation with the homeowner who has received 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, also called "non-judicial" foreclosures; it did not apply to judicial foreclosures.

News reports suggest that in recent months beneficiaries have largely halted non-judicial foreclosures and have instead opted to file suits to foreclosure in the courts, often called "judicial" foreclosures. Senate Bill 558-A expands the foreclosure mediation program to include judicial foreclosures and makes changes to the structure of the mediation program.