

77th OREGON LEGISLATIVE ASSEMBLY – 2013 Regular Session
STAFF MEASURE SUMMARY
House Committee on Consumer Protection & Government Efficiency

MEASURE: SB 558 A
CARRIER: Rep. Lively

REVENUE: Minimal revenue impact, no statement issued

FISCAL: Fiscal statement issued

Action: Do Pass

Vote: 7 - 1 - 1

Yeas: Doherty, Johnson, Keny-Guyer, Lively, Richardson, Vega Pederson, Holvey

Nays: Smith

Exc.: Thatcher

Prepared By: Bob Estabrook, Administrator

Meeting Dates: 5/7, 5/14

WHAT THE MEASURE DOES: Requires residential trust deed beneficiary to request resolution conference prior to foreclosing residential trust deed. Provides exemption. Specifies required contents of request. Allows grantor to request resolution conference in certain circumstances. Allows beneficiary to request resolution conference while maintaining exemption. Specifies timeline and other requirements for resolution conference and participating parties. Requires beneficiary to notify grantor found ineligible for foreclosure avoidance measure, and Department of Justice, within 10 days of determination with certain information. Makes certain beneficiary violations of measure unlawful trade practices. Establishes maximum fees for beneficiary and grantor. Directs Attorney General to adopt rules and take certain other actions to implement program. Aligns liability and confidentiality of facilitator with current law for mediators. Repeals provisions of existing law superseded by measure. Requires Attorney General to make available draft rules at least 30 days before operative date. Makes provisions operative 61 days after effective date. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Passage of Senate Bill 1552 (2012)
- Recent events driving types of foreclosure filings
- Consensus around adopted Senate amendments
- Consumer complaints received by Department of Justice
- Alternatives to foreclosure proceedings
- Foreclosure filing threshold for lenders to be covered by the measure
- Impact to very small volume private sale lenders
- Definition of residential trust deed
- Rate of lender response to requests for mediation under existing statute
- Elimination of “at-risk homeowner” designation

EFFECT OF COMMITTEE AMENDMENT: No amendment.

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 measure requires the beneficiary of a residential trust deed to enter into mediation with a homeowner who has received notice of foreclosure, but only applies to foreclosures conducted through notice and sale, the “non-judicial” foreclosures. The 2012 law also specifies steps for the homeowner to request mediation with a beneficiary when the homeowner is at risk of foreclosure. Foreclosure data suggests that beneficiaries have largely halted non-judicial foreclosures and have instead opted to file suits to foreclose in court, called “judicial” foreclosures.

Senate Bill 558 A expands the existing foreclosure mediation program to include judicial foreclosures and makes changes to the structure of the mediation program.

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