

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass the A-Engrossed Measure
Vote:	5 - 0 - 0
Yeas:	Beyer, Burdick, Ferrioli, Starr, Rosenbaum
Nays:	0
Exc.:	0
Prepared By:	Lori Brocker, Administrator
Meeting Dates:	6/24

WHAT THE MEASURE DOES: 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 affidavits if adequate notice of non-profit’s intention not received, if homeowner does not cooperate with appraisal process, or if lender’s contractual or other legal obligation requires lender to have affidavits. Changes definition of “residential trust deed.” Clarifies lender’s certificate of compliance must be filed prior to non-judicial foreclosure and must be unexpired at time of recording of notice of default. Clarifies certificate of compliance does not need to be unexpired for entire length of the proceeding, just when proceeding begins.

ISSUES DISCUSSED:

- Provisions of measure
- Loan Refinancing Assistance Pilot Project

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: The Loan Refinancing Assistance Pilot Project (LRAPP) in Crook, Deschutes, Jackson, Jefferson and Josephine counties is designed to help homeowners in those counties avoid foreclosure through a different refinancing process. The LRAPP Program is funded by the Oregon Homeownership Stabilization Initiative (OHSI), operated under the Oregon Housing and Community Services. The program works with lenders and servicers to identify homeowners who have fallen behind on their mortgage due to a hardship but are re-employed and could afford their mortgage. It utilizes the services of a real estate contractor to purchase a home at a short sale then resell it to the original homeowner at close to current value. The homeowner can then obtain a new mortgage at a more affordable rate, thereby avoiding foreclosure. House Bill 3389A removes a barrier to the program by prohibiting a beneficiary from requiring a non-profit purchaser at a short sale to sign an “arm’s length affidavit” promising not to sell or rent back to the original owner of the home, facilitating short sales to non-profits who want to re-sell the home, or lease it, back to the borrower at a reduced principal or better mortgage rate. The beneficiary may still require the affidavit if the beneficiary did not receive adequate notice of the non-profit’s intention ahead of time, if the homeowner doesn’t cooperate with the appraisal process, or if the lender’s contractual or other legal obligation requires the lender to have the affidavit.

Current law assesses whether or not the trust deed is residential by looking at the time of the default upon which the foreclosure is filed and states that the deed is residential if the borrower was living in the home as a primary residence at the time of default. Under current law, if the borrower is living in the home as a primary residence at the time of the default, the borrower is protected from a deficiency judgment. House Bill 3389A changes the definition of a residential trust deed to provide a more finite point in time for determining who is living in the home. The bill would assess whether or not a trust deed is “residential” by looking at the intent of the parties at the time the deed is recorded. In addition, the measure clarifies that a lender’s certificate of compliance that must be filed prior to a non-judicial foreclosure, must be unexpired at the time of the recording of the notice of default. The certificate of compliance does not have to be unexpired for the entire length of the proceeding, just when the foreclosure proceeding begins.

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