

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
Senate Committee On Judiciary

MEASURE: SB 367 A
CARRIER: Sen. Thatcher

Fiscal: No Fiscal Impact
Revenue: No Revenue Impact

Action Date: 02/23/15
Action: Do Pass With Amendments. (Printed A-Eng.)
Meeting Dates: 02/17, 02/23
Senate
Yeas: 5 - Burdick, Gelser, Thatcher, Prozanski, Kruse

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Specifies that certificate holder is solely liable for assessments by homeowners association or association of unit owners coming due during redemption period. Requires claimant to include any assessment paid by purchaser to homeowner association or association of unit owners with interest to redeem property from purchaser at execution sale or to redeem property. Requires certificate holder to include assessments paid to homeowners association or association of unit owners in accounting to judgment debtor. Clarifies that certificate holder is deemed owner of property if claimant has not redeemed property by end of redemption period, whether or not sheriff has executed and delivered deed.

ISSUES DISCUSSED:

- Six-month redemption period for property sold in execution sale
- Homeowner association fees may continue to be applied during redemption period
- Practice is for certificate holder to pay assessment
- Confusion in some situations over who should pay assessment
- Purchaser made aware of assessments at time of purchase

EFFECT OF COMMITTEE AMENDMENT:

Removes joint and severable liability. Makes certificate holder solely liable for all assessments that come due during redemption period.

BACKGROUND:

Property sold in a foreclosure sale may have a redemption period of 180 days in which the judgment debtor, the mortgage holder, any person with a lien against the property, or the successor in interest to any of those, can pay the sum paid by the purchaser, the amount owing on the lien, taxes paid on the property, any amounts spent to prevent waste of the property, and any amounts paid on liens superior to the purchaser's lien. The purchaser of the property is issued a certificate of sale at the start of the redemption period and the certificate holder has immediate right to the property. Because of this interim period, it is unclear who should be responsible for payment of homeowner association fees: the former owner who still technically holds the deed and may redeem the property, or the certificate holder who has immediate use and enjoyment of the property.

Senate Bill 367A clarifies that the certificate holder is solely liable for all fees assessed by the homeowners association or association of unit owners during the redemption period.