

Fiscal: No Fiscal Impact

Revenue: No Revenue Impact

Action Date: 04/23/15

Action: Do Pass.

Meeting Dates: 04/23

Vote:

Yeas: 7 - Barker, Barton, Greenlick, Lininger, Olson, Post, Sprenger

Exc: 2 - Krieger, Williamson

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 homeowners 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:

- Applies only to fees incurred during redemption period after execution sale
- Difference in foreclosure process between Oregon and other states
- Split of legal title from equitable title
- Equitable title holder responsible for fees during redemption period
- Prior owner responsible for fees incurred before execution sale

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

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 367 A 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.