

House Bill 3080

Sponsored by Representative ESQUIVEL

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires owner of foreclosed residential real property to provide owner's name and contact information to homeowners association, condominium board or other association of unit owners. Requires owner to pay dues, charges, fees and assessments that homeowners association, condominium board or association of unit owners imposes to maintain property that homeowners association, condominium board or other association of unit owners holds in common, and for related purposes, during period in which foreclosed residential real property is vacant. Requires owner to pay utilities during period in which foreclosed residential real property is vacant. Permits homeowners association, condominium board or other association of unit owners to bring action for dues, charges, fees or assessments that remain unpaid 60 days or more after date on which homeowners association, condominium board or other association of unit owners notified owner of dues, charges, fees or assessments.

A BILL FOR AN ACT

1
2 Relating to assessments that association of unit owners imposes on foreclosed residential real
3 property; amending ORS 18.995.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 18.995 is amended to read:

6 18.995. (1) As used in this section:

7 (a) "Foreclosed residential real property" means residential property, as defined in ORS 18.901,
8 that an owner obtains as a result of:

9 (A) Foreclosing a trust deed on the residential property; or

10 (B) Receiving a judgment that forecloses a lien on the residential property.

11 (b) "Neglect" means:

12 (A) To fail or a failure to maintain the buildings, grounds or appurtenances of foreclosed resi-
13 dential real property in such a way as to allow:

14 (i) Excessive growth of foliage that diminishes the value of adjacent property;

15 (ii) Trespassers or squatters to remain on the foreclosed residential real property or in a
16 structure located on the foreclosed residential real property;

17 (iii) Mosquito larvae or pupae to grow in standing water on the foreclosed residential real
18 property; or

19 (iv) Other conditions on the foreclosed residential real property that cause or contribute to
20 causing a public nuisance.

21 (B) To fail or a failure to monitor the condition of foreclosed residential real property by in-
22 specting the foreclosed residential real property at least once every 30 days with sufficient attention
23 so as to prevent, or to identify and remedy, a condition described in subparagraph (A) of this para-
24 graph.

25 (c) "Owner" means a person, other than a local government, that forecloses a trust deed by
26 advertisement and sale under ORS 86.752 or by suit under ORS 88.010.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (d) "Reasonable costs" means actual and demonstrable costs that are commensurate with and
 2 do not exceed the market rate for services necessary to remedy a condition of neglect, plus the ac-
 3 tual and demonstrable costs of administering a contract for services to remedy a condition of neglect
 4 or the portion of the costs of a program to remedy conditions of neglect that are attributable to
 5 remedying a condition of neglect for specific foreclosed residential real property.

6 (2)(a) An owner may not neglect the owner's foreclosed residential real property during any
 7 period in which the foreclosed residential real property is vacant.

8 (b) An owner shall provide the owner's name or the name of the owner's agent and a telephone
 9 number or other means for contacting the owner or agent to:

10 (A) The neighborhood association for the neighborhood in which the foreclosed residential real
 11 property is located; *[or]*

12 **(B) A homeowners association, condominium board or other association of unit owners,**
 13 **as described in ORS 100.450; or**

14 ~~[(B)]~~ (C) An official that the local government designates to receive the information described
 15 in this paragraph.

16 (c) An owner shall post a durable notice in a conspicuous location on the foreclosed residential
 17 real property that lists a telephone number for the owner or for the local government that a person
 18 may call to report a condition of neglect. The owner shall replace the notice if the notice is removed
 19 from the foreclosed residential real property during a period when the foreclosed residential real
 20 property is vacant.

21 (d) An owner or the agent of an owner shall identify the owner of the foreclosed residential real
 22 property to the local government and shall provide to, and maintain with, the local government
 23 current contact information during a period when the foreclosed residential real property is vacant.

24 **(e) An owner shall pay dues, charges, fees or other assessments that a homeowners as-**
 25 **sociation, condominium board or other association of unit owners imposes for maintaining**
 26 **property that the association or board holds in common, or for related purposes, during a**
 27 **period when the foreclosed residential real property is vacant. The homeowners association,**
 28 **condominium board or other association of unit owners shall notify the owner of the dues,**
 29 **charges, fees or assessments that the homeowners association, condominium board or other**
 30 **association of unit owners imposes for the foreclosed residential real property. Under the**
 31 **circumstances set forth in this paragraph, without having to foreclose a lien on the fore-**
 32 **closed residential real property, a homeowners association, condominium board or other as-**
 33 **sociation of unit owners may bring an action against the owner for the amount of dues,**
 34 **charges, fees or assessments that the homeowners association, condominium board or other**
 35 **association of unit owners imposed on the owner, along with attorney fees and costs, if the**
 36 **amount of the dues, charges, fees or assessments remains unpaid for 60 days or more after**
 37 **the homeowners association, condominium board or other association of unit owners notified**
 38 **the owner of the dues, charges, fees or other assessments.**

39 **(f) During a period when foreclosed residential real property is vacant, an owner shall**
 40 **pay the cost of maintaining utilities for the foreclosed residential real property that is sub-**
 41 **ject to dues, charges, fees or assessments from a homeowners association, condominium**
 42 **board or other association of unit owners. A homeowners association, condominium board**
 43 **or other association of unit owners may pay the cost of maintaining utilities for the fore-**
 44 **closed residential real property and may charge the owner for the cost of the utilities if an**
 45 **agreement between the homeowners association, condominium board or other association**

1 **of unit owners and the owner or the person that owned the foreclosed residential real prop-**
 2 **erty before foreclosure so provides.**

3 (3)(a) If a local government finds a violation of subsection (2)(a) of this section, the local gov-
 4 ernment shall notify the owner in writing of the foreclosed residential real property that is the
 5 subject of the violation and in accordance with paragraph (b) or (c) of this subsection, as appropri-
 6 ate, shall specify a time within which the owner must remedy the condition of neglect that is the
 7 basis for the local government’s finding.

8 (b) The local government shall allow the owner not less than 30 days to remedy the violation
 9 unless the local government makes a determination under paragraph (c) of this subsection and shall
 10 provide the owner with an opportunity to contest the local government’s finding at a hearing. The
 11 owner must contest the local government’s finding within 10 days after the local government notifies
 12 the owner of the violation.

13 (c) If the local government determines that a specific condition of the foreclosed residential real
 14 property constitutes a threat to public health or safety, the local government may require an owner
 15 to remedy the specific condition in less than 30 days, provided that the local government specifies
 16 in the written notice the date by which the owner must remedy the specific condition. A local gov-
 17 ernment may specify in the written notice different dates by which the owner must remedy separate
 18 conditions of neglect on the foreclosed residential real property.

19 (4)(a) After a local government allows an owner the time specified in subsection (3)(b) of this
 20 section or makes a determination under subsection (3)(c) of this section, the local government may
 21 remedy or contract with another person to remedy neglect or a specific condition of neglect on
 22 foreclosed residential real property and require the owner to reimburse the local government for
 23 reasonable costs the local government incurs under this paragraph.

24 (b) A local government that has incurred costs with respect to foreclosed residential real prop-
 25 erty under paragraph (a) of this subsection has a lien on the foreclosed residential real property for
 26 the sum of the local government’s unreimbursed costs. A lien created under this paragraph is prior
 27 to all other liens and encumbrances, except that the lien has equal priority with a tax lien. The lien
 28 attaches at the time the local government files a claim of lien with the county clerk of the county
 29 in which the foreclosed residential real property is located. A local government may bring an action
 30 in the circuit court to foreclose the lien in the manner provided for foreclosing other liens on real
 31 or personal property.

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