



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

DATE: May 8, 2017

TO: Honorable Lee Beyer, Chair
Senate Committee on Business and Transportation

FROM: Cheryl Hiemstra, Deputy Legislative Director

SUBJECT: House Bill 2359 – Copies of Notices to the Attorney General

This testimony is presented in support of House Bill 2359.

BACKGROUND

In 2012 and 2013, the Oregon Legislature passed a series of foreclosure reforms. Among them, ORS 86.748 addressed the practice of “dual tracking,” in which a borrower would believe they were actively negotiating with their lender to avoid foreclosure while the lender was simultaneously moving the borrower through foreclosure. To address these issues, among other things, the law requires lenders to notify a borrower in writing when they determine the borrower is not eligible for a foreclosure avoidance measure. The law also allows the borrower to seek penalties if the lender fails to send the notice to the borrower.

In addition to requiring lenders to send this notice to borrowers, the law had a unique requirement that lenders send a copy of that same notice to the Attorney General. At the time, other foreclosure reforms were still in nascent stages. Since then, the benefits of the Attorney General receiving these notices no longer outweigh the resources required to process the high volume of notices.

CONCEPT

House Bill 2359 removes the requirement to send copies to the Attorney General from ORS 86.748 so that the Department of Justice no longer automatically receives all of these notices. Borrowers retain all of their rights under the bill. This bill does not impact the ability of the Department of Justice to seek copies of these notices in an investigation. This bill does not affect the foreclosure avoidance program.

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