

HB 2285 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 2/26

WHAT THE MEASURE DOES:

Directs the court to appoint a receiver upon making specific finding that city or county has complied with requirements of statute, that property is a threat to public health, safety or welfare, and interested parties have failed to appear or failed to comply with court order. Provides new process in which city or county may request general judgment in lieu of receivership. Requires the court to make specific findings before entering general judgment. Directs receiver to file a report at least once no later than 60 days after the receivership begins, once no later than 30 days after the receivership terminates, and from time to time as the court may order. Directs the court, upon approval of the report, to order that the property is liable for any net losses of the receiver over the course of the reporting period, that the county recorder may enter the order as a lien against the property within 60 days after the date of the order, and that the lien has priority over all other liens, mortgages and encumbrances. Permits receiver to file an order with the county recorder as a lien on the property at any time within 60 days of the order unless all losses recited in the order have been paid.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

ORS 105.430 allows a city or county to apply to the court for an appointment of a receiver to perform an abatement on abandoned or derelict property. Notice of the application must be given to all interested parties at least 60 days prior to filing the application. A city or county may not apply for a receiver if an interested party has commenced an action or other judicial or nonjudicial proceeding to foreclose a security interest on the property, including an action under a land sale contract. In the event that no interested party elects to take such actions, the court shall make a determination that the property is an unsafe or insanitary condition and appoint a receiver to complete the abatement. Once a receiver has been appointed by the court, the receiver may take possession and control of the property and has the right to enter, modify and terminate tenancies, charge and collect rents, apply these rents to the costs incurred due to the abatement and receivership, and negotiate contracts. The receiver must also pay all accrued property taxes, penalties, assessments and other charges imposed, and dispose of any or all abandoned personal property found at the structure. Upon permission and conditions of the court, a receiver may enter into financial agreements with lenders to raise money for correcting the condition of the property. A receiver may charge an administrative fee at an hourly rate approved by the court or at a rate of 15 percent of the total cost of the abatement, whichever the court deems more appropriate. All abatement work done under these sections are exempt from public contracting statutes.

House Bill 2285 directs the court, upon making a separate finding, to enter a general judgment in favor of the city or county in the amount of the estimated costs of abatement in lieu of appointing a receiver. Such a judgment shall have the priority of a lien. Additionally, HB 2285 requires that a receiver file a report at least once no later than 60 days after the receivership begins and once no later than 30 days after the receivership terminates. Upon the court's approval of the report, the court shall order that the property is liable for any net losses of the receiver over the course of the reporting period. This includes administrative fees of the receiver, plus applicable interest.

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The county recorder may enter the order as a lien against the property within 60 days after the date of the order, and such lien has priority over all other liens, mortgages and encumbrances. HB 2285 also includes technical changes.

PRELIMINARY