

SB 11 A -A4 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 5/16, 5/20

WHAT THE MEASURE DOES:

Requires purchaser of right of redemption to provide seller with warning notice providing information on possible rights lost by selling interest. Requires notice in clear and conspicuous language in at least 14-point font. Requires affidavit of notice at or before the time of recording the deed transfer. Allows notice to be affixed to the deed. Requires notice to debtor and prospective bidders be included on sheriff's website prior to sheriff's sale. Requires notice in complaint to foreclose residential trust deed.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-A4 Limits required notice to period of time before sheriff's sale. Includes language within notice on owner's right to continue to reside on property.

BACKGROUND:

When real property enters a judicial foreclosure and undergoes a sheriff's sale of the property, the homeowner of the property has 180 days after the sale of the property in which to pay the outstanding amount owed. If paid, the person can regain the home. The right to regain the property is called the right of redemption (ORS 18.960 - 18.985). The right to redeem the property can be held by a successor in interest to the property. It is also a right that can be sold. As a result, a person beginning the foreclosure process may sell the right to redeem the property to a third person. When the property is sold, it may be for a price that is higher than the amount owed. The redemption rights do not transfer to the person who won the bid on the property, resulting in a situation in which a third party may both retain the excess funds from the sale and hold the property for 180 days post-sale.

Senate Bill 11 A requires a particular notice be given to the seller by the prospective purchaser of the redemption rights. The notice must be in clear type, 14-point or larger. The measure specifies the language that must be provided, which warns the seller to be careful about the transaction and notes that the person may be giving up the redemption rights and right to surplus funds. An affidavit stating that the warning was given must be filed at the time of recording the transfer. An additional notice with similar warnings must be posted on the sheriff's website prior to sale of the property and be included in the complaint to foreclose a residential trust deed.