

**REVENUE:** No revenue impact**FISCAL:** Fiscal statement issued

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	5 - 0 - 0
<b>Yeas:</b>	Boquist, Dingfelder, George, Rosenbaum, Shields
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Jan Nordlund, Administrator
<b>Meeting Dates:</b>	2/6, 2/13

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**WHAT THE MEASURE DOES:** Requires beneficiary under residential trust deed to send notice of mediation and enter into mediation with homeowner for purpose of agreeing to foreclosure avoidance measure. Directs Attorney General to appoint mediation service provider to coordinate mediation program. Directs Attorney General to enter into agreement to pay mediation service provider from proceeds of fee on notice of default. Directs Attorney General to set by rule schedule of fees for mediation. Specifies that homeowner and beneficiary share cost of mediation and that homeowner's portion cannot exceed \$200. Requires mediator to complete certificate of compliance and provide it to homeowner, beneficiary, and Attorney General. Requires beneficiary to record certificate of compliance with county before proceeding with foreclosure. Allows homeowner at risk of default to request beneficiary enter into mediation. Increases to 180 days amount of time between notice of sale and date of sale if foreclosure is on residential trust deed. Requires notice be given to homeowner if trustee postpones sale date. Requires beneficiary or trustee to pay \$100 fee when filing notice of default. Exempts from all provisions those trustees or beneficiaries who have commenced fewer than 250 foreclosures during last 12-month period. Declares emergency, effective on passage, with operative date 91 days after effective date.

**ISSUES DISCUSSED:**

- Legislation in other states mandating mediation
- Number and trend of foreclosures
- History of housing industry pulling the economy out of a recession
- Cost of notices and mediation and length of foreclosure process
- Homeowner enters mediation voluntarily
- Whether small banks and credit unions should be subject to provisions
- Recent settlement with five largest banks
- Recent rules issued by Attorney General for all Oregon lender to follow

**EFFECT OF COMMITTEE AMENDMENT:** Requires beneficiary or trustee to pay \$100 fee when filing notice of default. Exempts from all provisions those trustees or beneficiaries who have commenced fewer than 250 foreclosure during last 12-month period. Directs Attorney General to appoint mediation service provider to coordinate mediation program. Directs Attorney General to enter into agreement to pay mediation service provider from proceeds of fee on notice of default. Directs Attorney General to set by rule schedule of fees for mediation. Adds an operative date that is 91 days after effective date of Act.

**BACKGROUND:** Oregon foreclosure law was changed in 2009 with passage of Senate Bill 628, which was primarily intended to ensure that homeowners facing foreclosure receive more information about options and to bring lenders and homeowners together to review loan modification opportunities. The provisions established by Senate Bill 628 (2011) expired on January 1, 2012.

Despite a nearly 40 percent drop in foreclosure filings in Oregon and nationally in 2011, news reports indicate that foreclosures are expected to increase in 2012 as lenders proceed with foreclosures that were stalled because of legal uncertainty in the non-judicial foreclosure process. Through the second quarter of 2011, nearly 40,000 Oregon homeowners were in foreclosure or seriously delinquent, representing one out of every eleven homeowners. At the close of 2011, Oregon ranked 14<sup>th</sup> nationwide in the percent of homeowners in foreclosure. Data suggests that 120,000 Oregon homeowners are \$4.7 billion underwater.

In early February, the Oregon Attorney General announced that he will sign on to a multi-state agreement with five of the nation's largest banks that penalizes banks engaged in wrongful foreclosure practices and offers relief to homeowners. The settlement will provide \$30 million to Oregon and as much as \$200 million in relief to Oregon homeowners. The settlement also sets standards for how banks conduct foreclosures. The five banks in the settlement are Bank of America Corp., JPMorgan Chase & Co., Citigroup Inc., Wells Fargo & CO., and Ally Financial Inc. A federal judge must still approve the agreement.