

SB 11 -1, -3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/26, 4/3

WHAT THE MEASURE DOES:

Prohibits sale of right of redemption in judicial foreclosures.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces measure. Requires purchaser 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. May 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.

-3 Incorporates the -1 amendment, but modifies notice of rights to remove language referencing "right to possession."

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. See 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 of 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 prohibits the sale of the right of redemption.