

House Bill 3340

Sponsored by Representative HOLVEY (at the request of FHL Bank Des Moines)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that court may not stay or prohibit federal home loan bank from exercising rights to collateral pledged by insurer-member that is subject to delinquency proceeding. Requires receiver to comply with provisions of Act with respect to claims against insurer-member.

Requires federal home loan bank that exercises right to collateral to repurchase any outstanding capital stock that exceeds amount of federal home loan bank stock that insurer-member must hold as minimum investment, subject to certain determinations.

Prohibits receiver from voiding transfer of, or obligation to transfer, moneys or property under terms of federal home loan bank security agreement.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to federal home loan bank rights with respect to insurer-members under Oregon delin-
3 quency proceedings; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS 734.110 to**
6 **734.440.**

7 **SECTION 2. (1) As used in this section:**

8 (a) **"Federal home loan bank" has the definition given that term in 12 U.S.C. 1422, as in**
9 **effect on the effective date of this 2021 Act.**

10 (b) **"Insurer-member" means an insurer that is a member of a federal home loan bank.**

11 (2) **Notwithstanding requirements for a form of claim against an insurer that are set**
12 **forth in ORS 734.280 and notwithstanding the priority of preferred claims against an insurer**
13 **that are specified in ORS 734.290, of special deposit claims against an insurer that are spec-**
14 **ified in ORS 734.300 or of secured claims against an insurer that are specified in ORS 734.310:**

15 (a) **A court may not stay or prohibit a federal home loan bank from exercising the federal**
16 **home loan bank's rights with respect to collateral that an insurer-member has pledged; and**

17 (b) **A receiver shall comply with the provisions of this section with respect to:**

18 (A) **The federal home loan bank's rights in connection with an insurer-member; and**

19 (B) **Claims against an insurer-member.**

20 (3) **A federal home loan bank that exercises a right with respect to collateral pledged by**
21 **an insurer-member that is subject to a delinquency proceeding shall repurchase any out-**
22 **standing capital stock that exceeds the amount of the federal home loan bank's stock that**
23 **the insurer-member must hold as a minimum investment if the federal home loan bank de-**
24 **termines in good faith that the repurchase is:**

25 (a) **Permissible under applicable laws, regulations, regulatory obligations and the federal**
26 **home loan bank's capital plan; and**

27 (b) **Consistent with the current capital stock practices the federal home loan bank applies**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 to the entire membership of the federal home loan bank.

2 (4) After the appointment of a receiver for an insurer-member, a federal home loan bank,
3 within 10 business days after a request from the receiver, shall establish a process and
4 timeline for:

5 (a) Releasing collateral that, under the terms of applicable agreements between the fed-
6 eral home loan bank and the insurer-member, exceeds the amount required to support obli-
7 gations that remain after repaying loans;

8 (b) Releasing any of the insurer-member's collateral that remains in the federal home
9 loan bank's possession after payment in full of all of the insurer-member's outstanding obli-
10 gations;

11 (c) Paying fees the insurer-member owes and operating the insurer-member's deposits
12 and accounts with the federal home loan bank; and

13 (d) Redeeming or repurchasing federal home loan bank stock or excess stock of any class
14 that an insurer-member must own.

15 (5) A federal home loan bank, at a receiver's request, shall provide any available oppor-
16 tunities that may exist for an insurer-member that is subject to a delinquency proceeding
17 to renew or restructure a loan to defer prepayment fees, with due regard for:

18 (a) Market conditions;

19 (b) The terms of any loans to the insurer-member that are outstanding;

20 (c) Applicable policies of the federal home loan bank; and

21 (d) The federal home loan bank's compliance with federal laws and regulations.

22 (6)(a) Notwithstanding ORS 734.350 and except as provided in paragraph (b) of this sub-
23 section, a receiver for an insurer-member, including the Director of the Department of
24 Consumer and Business Services, may not void any transfer of, or obligation to transfer,
25 moneys or property that occurs or arises under or in connection with:

26 (A) A federal home loan bank security agreement;

27 (B) A pledge, security, collateral or guarantee agreement; or

28 (C) Any other similar arrangement or credit enhancement that relates to a federal home
29 loan bank security agreement made in the ordinary course of business and in compliance
30 with the applicable federal home loan bank agreement.

31 (b) A receiver may void a transfer if the transfer was made with an intent to hinder,
32 delay or defraud the insurer-member, the receiver or existing or future creditors.

33 (c) This subsection does not affect a receiver's rights under 12 C.F.R. part 1266.4, as in
34 effect on the effective date of this 2021 Act, with respect to advances to an insurer-member
35 that is subject to a delinquency proceeding.

36 SECTION 3. Section 2 of this 2021 Act applies to delinquency proceedings that begin on
37 or after the effective date of this 2021 Act.

38 SECTION 4. This 2021 Act being necessary for the immediate preservation of the public
39 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
40 on its passage.