77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

Enrolled

House Bill 2929

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT

EFFICIENCY

CHAPTER ................

AN ACT

Relating to trustee's sales of foreclosed property; creating new

provisions; and amending ORS 86.705, 86.755 and 86.790.

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

SECTION 1. ORS 86.755, as amended by section 9, chapter 112,

Oregon Laws 2012, is amended to read:

86.755. (1)(a) A trustee shall hold a trustee's sale on the

date and at the time and place designated in the notice of sale

given under ORS 86.740. The designated time of the trustee's sale

must be after 9 a.m. and before 4 p.m., based on the standard of

time set forth in ORS 187.110, and the designated place of the

trustee's sale must be in the county or one of the counties in

which the property is situated. Except as provided in paragraph

(b) of this subsection, the trustee may sell the property in one

parcel or in separate parcels and shall sell the parcel or

parcels at auction to the highest bidder for cash. Any person,

including the beneficiary under the trust deed, but excluding the

trustee, may bid at the trustee's sale. An attorney for the

trustee, or an agent that the trustee or the attorney designates,

may conduct the sale and act in the sale as the trustee's

auctioneer.

(b) If the trustee sells property upon which a single

residential unit that is subject to an affordable housing

covenant is situated, the eligible covenant holder may purchase

the property from the trustee at the trustee's sale for cash or

cash equivalent in an amount that is the lesser of:

(A) The sum of the amounts payable under ORS 86.765 (1) and

(2); or

(B) The highest bid received for the property other than a bid

from the eligible covenant holder.

(c)(A) Except as provided in subparagraph (B) of this

paragraph, if an eligible covenant holder purchases the property

in accordance with paragraph (b) of this subsection, the sale

forecloses and terminates all other interests in the property as

provided in ORS 86.770 (1).

(B) If an interest in the property exists that is prior to the

eligible covenant holder's interest, other than the interest set

forth in the trust deed that was the subject of the foreclosure

proceeding under ORS 86.735, notwithstanding the provisions of

ORS 86.770 (1) the sale does not foreclose and terminate the

prior interest and the eligible covenant holder's title to the

property is subject to the prior interest.

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(2)(a) The trustee or the attorney for the trustee, or an agent

that the trustee or the attorney conducting the sale designates,

may postpone the sale for one or more periods that total not more

than 180 days from the original sale date, giving notice of each

postponement by public proclamation made at the time and place

set for sale. The trustee, the attorney or an agent that the

trustee or the attorney designates may make the proclamation.

(b) If a person postpones the sale date as provided in

paragraph (a) of this subsection, the trustee, in the manner

provided for service of the notice of sale under ORS 86.740 (1),

shall cause written notice of the new time, date and place for

the sale to be served on the grantor and on any person to whom

notice of the sale was given under ORS 86.745. The notice must be

given at least 15 days before the new sale date. The person may

postpone the sale once, for not more than two calendar days,

without giving notice as provided in this paragraph. The person

may not postpone the sale for more than two calendar days or more

than once without giving notice as provided in this paragraph.

(3) The purchaser shall pay at the time of sale the price bid

or the price determined in accordance with subsection (1)(b) of

this section, and, within 10 days following payment, the trustee

shall execute and deliver the trustee's deed to the purchaser.

{ - (4) The trustee's deed shall convey to the purchaser the

interest in the property that the grantor had, or had the power

to convey, at the time the grantor executed the trust deed,

together with any interest the grantor or the grantor's

successors in interest acquire after the execution of the trust

deed. - }

{ + (4)(a) Within 10 calendar days after the date of the

trustee's sale, the trustee may rescind the trustee's sale and

void the trustee's deed only if:

(A) The trustee asserts that during the trustee's sale a bona

fide error occurred in:

(i) Setting, advertising or otherwise specifying the opening

bid amount for the property that is the subject of the trustee's

sale;

(ii) Providing a correct legal description of the property that

is the subject of the trustee's sale; or

(iii) Complying with a requirement or procedure that is imposed

by law;

(B) The grantor and the beneficiary agreed to a foreclosure

avoidance measure, as defined in section 2, chapter 112, Oregon

Laws 2012, that would postpone or discontinue the trustee's sale;

or

(C) The beneficiary accepted funds to reinstate the trust deed

and obligation in accordance with ORS 86.753, even if the

beneficiary did not have a legal duty to do so.

(b) Within 10 calendar days after the date of the trustee's

sale that the trustee rescinded under paragraph (a) of this

subsection, the trustee shall provide notice of the rescission of

the trustee's sale to any person to whom notice of the sale was

given. The trustee shall mail or serve notice of the rescission

in the manner provided for serving or mailing the notice of sale

under ORS 86.740 (1). The notice of rescission must:

(A) Display the date on which the trustee mailed the notice,

served the notice or delivered the notice for service; and

(B) State that, and explain why, the trustee rescinded the

trustee's sale and voided the trustee's deed.

(c) Not later than three calendar days after the date displayed

on the rescission notice described in paragraph (b) of this

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subsection, the trustee shall refund to the purchaser the amount

the purchaser paid for the property that is the subject of the

rescission notice.

(d) If the trustee rescinded a trustee's sale and voided a

trustee's deed in accordance with this subsection, the trustee,

not later than 21 days after the date of the trustee's sale that

resulted in the rescission, shall present for recording an

affidavit that states that the trustee provided the notice of

rescission described in paragraph (b) of this subsection. The

affidavit must identify the trust deed that was subject to the

rescinded trustee's sale and the voided trustee's deed.

(e) The trustee's deed conveys to the purchaser the interest in

the property that the grantor had, or had the power to convey, at

the time the grantor executed the trust deed, together with any

interest the grantor or the grantor's successors in interest

acquire after the execution of the trust deed. + }

(5)(a) If property purchased at the trustee's sale includes one

or more dwelling units that are subject to ORS chapter 90, the

purchaser must provide written notice of { + the + } change in

ownership to the occupants of each unit within 30 days after the

date of sale and before or concurrently with service of a written

termination notice authorized by subsection (6)(c)(B) of this

section.

(b) The notice required by this subsection must:

(A) Explain that the dwelling unit has been sold at a

foreclosure sale and that the purchaser at { - that - } { +

the foreclosure + } sale is the new owner.

(B) Include the date on which the foreclosure sale took place.

(C) Include the name, contact address and contact telephone

number of the purchaser or the purchaser's representative.

(D) Provide information about the rights of bona fide

residential tenants as provided in subsections (6)(c) and (e) and

(9)(a) of this section.

(E) Include contact information for the Oregon State Bar and a

person or organization that provides legal help to individuals at

no charge to the individual.

(c) The notice must be served by one or more of the following

methods:

(A) Personal delivery to the tenant.

(B) First class mail to the tenant at the dwelling unit.

(C) First class mail to the tenant at the dwelling unit and

attachment of a second notice copy. The second notice copy must

be attached in a secure manner to the main entrance to the

portion of the premises in the possession of the tenant.

(D) If { + the purchaser does not know + } the names of the

tenants

{ - are not known to the purchaser - } , the notice may be

addressed to ' occupants. '

(d) A notice that contains the information required under

paragraph (b)(B) and (C) of this subsection meets the

requirements of paragraph (b) of this subsection if the notice is

in substantially the following form:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTICE TO RESIDENTIAL TENANTS OF

CHANGE IN OWNERSHIP

The property in which you are living has gone through

foreclosure and was sold to a new owner on \_\_\_\_\_\_\_\_ (date). The

contact information for the new owner or the owner's

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representative is \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name, address, telephone

number).

IF YOU ARE A BONA FIDE TENANT RENTING THIS PROPERTY AS A

RESIDENTIAL DWELLING, YOU HAVE THE RIGHT TO CONTINUE LIVING IN

THIS PROPERTY AFTER THE FORECLOSURE SALE FOR:

o THE REMAINDER OF YOUR FIXED TERM LEASE, IF YOU HAVE A FIXED

TERM LEASE; OR

o AT LEAST 90 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN

TERMINATION NOTICE.

If the new owner wants to move in and use this property as a

primary residence, the new owner can give you written notice and

require you to move out after 90 days, even though you have a

fixed term lease with more than 90 days left.

You must be provided with at least 90 days' written notice

after the foreclosure sale before you can be required to move.

A bona fide tenant is a residential tenant who is not the

borrower (property owner), or a child, spouse or parent of the

borrower, and whose rental agreement:

o Is the result of an arm's-length transaction;

o Requires the payment of rent that is not substantially less

than fair market rent for the property, unless the rent is

reduced or subsidized due to a federal, state or local subsidy;

and

o Was entered into prior to the date of the foreclosure sale.

IMPORTANT:

YOU SHOULD CONTACT THE NEW OWNER OR THE OWNER'S REPRESENTATIVE

AT THE ADDRESS LISTED ON THIS NOTICE AS SOON AS POSSIBLE TO LET

THE NEW OWNER KNOW IF YOU ARE A BONA FIDE TENANT. YOU SHOULD

PROVIDE WRITTEN EVIDENCE OF THE EXISTENCE OF YOUR RENTAL

AGREEMENT, ESPECIALLY IF YOU HAVE A FIXED TERM RENTAL AGREEMENT

OR LEASE WITH MORE THAN 90 DAYS LEFT. Written evidence of your

rental agreement can be a copy of your lease or rental agreement,

or other documentation of the existence of your rental agreement.

Keep your original documents and a record of any information you

give to the new owner.

YOUR TENANCY

BETWEEN NOW

AND THE MOVE-OUT DATE

The new owner may be willing to allow you to stay as a tenant

instead of requiring you to move out after 90 days or at the end

of your fixed term lease. You should contact the new owner if you

would like to stay. If the new owner accepts rent from you, signs

a new residential rental agreement with you or does not notify

you in writing within 30 days after the date of the foreclosure

sale that you must move out, the new owner becomes your new

landlord and must maintain the property. Otherwise:

o You do not owe rent;

o The new owner is not your landlord and is not responsible for

maintaining the property; and

o You must move out by the date the new owner specifies in a

notice to you.

The new owner may offer to pay your moving expenses and any

other costs or amounts you and the new owner agree on in exchange

for your agreement to leave the premises in less than 90 days or

before your fixed term lease expires. You should speak with a

lawyer to fully understand your rights before making any

decisions regarding your tenancy.

IT IS UNLAWFUL FOR ANY PERSON TO TRY TO FORCE YOU TO LEAVE YOUR

DWELLING UNIT WITHOUT FIRST GIVING YOU WRITTEN NOTICE AND GOING

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TO COURT TO EVICT YOU. FOR MORE INFORMATION ABOUT YOUR RIGHTS,

YOU SHOULD CONSULT A LAWYER. If you believe you need legal

assistance, contact the Oregon State Bar and ask for the lawyer

referral service. Contact information for the Oregon State Bar is

included with this notice. If you do not have enough money to pay

a lawyer and are otherwise eligible, you may be able to receive

legal assistance for free. Information about whom to contact for

free legal assistance is included with this notice.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(6)(a) Except as provided in paragraph (b) or (c) of this

subsection, the purchaser at the trustee's sale is entitled to

possession of the property on the 10th day after the sale. A

person that remains in possession after the 10th day under any

interest, except an interest prior to the trust deed, or an

interest the grantor or a successor of the grantor created

voluntarily, is a tenant at sufferance. The purchaser may obtain

possession of the property from a tenant at sufferance by

following the procedures set forth in ORS 105.105 to 105.168 or

other applicable judicial procedure.

(b) Except as provided in paragraph (c) of this subsection, at

any time after the trustee's sale the purchaser may follow the

procedures set forth in ORS 105.105 to 105.168 or other

applicable judicial procedure to obtain possession of the

property from a person that holds possession under an interest

that the grantor or a successor of the grantor created

voluntarily if, not earlier than 30 days before the date first

set for the sale, the person was served with not less than 30

days' written notice of the requirement to surrender or deliver

possession of the property.

(c) If the property purchased at the trustee's sale includes a

dwelling unit that is subject to ORS chapter 90 and an individual

occupies the unit under a bona fide tenancy, the purchaser may

obtain possession by following the procedures set forth in ORS

105.105 to 105.168 and by using the complaint form provided in

ORS 105.124 or 105.126:

(A) { - Upon expiration of - } { + After + } the fixed term

of the tenancy { + expires + }, if the bona fide tenancy is a

fixed term tenancy as defined in ORS 90.100; or

(B) At least 90 days after service of a written termination

notice if the bona fide tenancy is:

(i) A fixed term tenancy and the purchaser intends to occupy,

as the purchaser's primary residence, the dwelling unit that is

subject to the fixed term tenancy; or

(ii) A month-to-month tenancy or week-to-week tenancy, as those

terms are defined in ORS 90.100.

(d) If a purchaser gives a 90-day written termination notice

pursuant to paragraph (c) of this subsection, the purchaser may

include in the notice a request that a tenant with a fixed term

tenancy provide written evidence of the existence of the tenancy

to the purchaser at an address described in the notice. Written

evidence includes a copy of the rental agreement or another

document that shows the existence of the fixed term tenancy.

{ - Failure of the tenant - } { + The tenant's failure + } to

provide the requested written evidence before the purchaser files

an action for possession based on a 90-day notice:

(A) Does not prevent the tenant from asserting the existence of

the fixed term tenancy as a defense to the action.

(B) Prevents the tenant from recovering prevailing party

attorney fees or costs and disbursements pursuant to subsection

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(11)(b) of this section. The 90-day notice must describe the

provisions of this paragraph.

(e) A purchaser may not commence a proceeding under ORS 105.105

to 105.168 that is authorized under this subsection before the

later of:

(A) The 10th day after the trustee's sale;

(B) The date specified in a written notice of the requirement

to surrender or deliver possession of the property if the notice

is required by and is given to the person in accordance with

paragraph (b) of this subsection;

(C) The date specified in a written notice of the purchaser's

intent to terminate a tenancy if the notice is required by and is

given to the person in accordance with paragraph (c) of this

subsection; or

(D) The date on which the term of a fixed term tenancy ends, if

the property is a dwelling unit and the purchaser has not

terminated the tenancy in accordance with paragraph (c) of this

subsection.

(f) A purchaser { - seeking - } { + that seeks + } to

obtain possession pursuant to ORS 105.105 to 105.168 must attach

proof of service of a written termination notice required by

paragraph (c) of this subsection to the pleadings.

(g) In an action to obtain possession, violation of the

procedures required by subsection (5) of this section or

paragraph (c) of this subsection is a defense for a bona fide

tenant seeking to retain possession.

(h) As used in this subsection, 'bona fide tenancy' means

tenancy of a dwelling unit that is subject to ORS chapter 90 that

results from an arm's-length transaction that occurred before the

date of a foreclosure sale in which:

(A) The mortgagor or the child, spouse or parent of the

mortgagor under the contract is not the tenant; and

(B) The rent required is not substantially less than fair

market rent for the dwelling unit, unless the rent is reduced or

subsidized due to a federal, state or local subsidy.

(7) A purchaser shall serve a notice under subsection (6) of

this section by one or more of the following methods:

(a) Personal delivery to the tenant.

(b) First class mail to the tenant at the dwelling unit.

(c) First class mail to the tenant at the dwelling unit and

attachment of a second notice copy. The second notice copy must

be attached in a secure manner to the main entrance to the

portion of the premises in the possession of the tenant.

(8) If the notice under subsection (6) of this section is

served by mail pursuant to subsection (7)(b) of this section, the

minimum period for compliance must be extended by three days and

the notice must include the extension in the period stated in the

notice.

(9)(a) Notwithstanding the provisions of subsection (6)(c) of

this section and except as provided in paragraph (b) of this

subsection, the purchaser is not a landlord subject to the

provisions of ORS chapter 90 unless the purchaser:

(A) Accepts rent from the individual who possesses the property

under a tenancy described in subsection (6)(c) of this section;

(B) Enters into a new rental agreement with the individual who

possesses the property under a tenancy described in subsection

(6)(c) of this section; or

(C) Fails to terminate the tenancy as provided in subsection

(6)(c) of this section within 30 days after the date of the sale.

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(b) The purchaser may act as a landlord for purposes of

terminating a tenancy in accordance with the provisions of ORS

90.396.

(c) The purchaser is subject to the provisions of ORS 90.322,

90.375, 105.165, 659A.421 and 659A.425. The application of ORS

90.375 to a purchaser that does not become a landlord does not

impose an affirmative duty to pay for or provide services. For

the purpose of damages pursuant to this paragraph, 'rent' refers

to the amount { - paid by - } the tenant { + pays + } to the

landlord for the right to occupy the unit before the foreclosure.

(10)(a) Except as provided in paragraph (b) of this subsection,

the purchaser is not liable to the individual who possesses the

property under a tenancy described in subsection (6)(c) of this

section for:

(A) Damage to the property or diminution in rental value; or

(B) Returning a security deposit.

(b) A purchaser that is a landlord under the provisions of

subsection (9)(a) of this section is liable to the individual who

possesses the property under a tenancy described in subsection

(6)(c) of this section for:

(A) Damage to the property or diminution in rental value that

occurs after the date of the trustee's sale; or

(B) Returning a security deposit the individual pays after the

date of the trustee's sale.

(11)(a) Except as provided in paragraph (b) of this subsection

and notwithstanding an agreement to the contrary, in an action or

defense arising pursuant to subsection (6)(c), (d), (f) or (g),

(7) or (9)(c) of this section, reasonable attorney fees at trial

and on appeal may be awarded to the prevailing party together

with costs and disbursements.

(b) If a tenant asserts a successful defense to an action for

possession pursuant to subsection (6)(c), (d), (f) or (g) of this

section, the tenant is not entitled to prevailing party fees,

attorney fees or costs and disbursements if the purchaser:

(A) Did not know, and did not have reasonable cause to know, of

the existence of a fixed term tenancy when commencing the action

for possession; and

(B) Promptly dismissed the action upon becoming aware of the

existence of a fixed term tenancy.

(c) As used in this subsection, 'prevailing party' means the

party in whose favor final judgment is rendered.

(12)(a) Notwithstanding subsection (2) of this section, except

when a beneficiary has participated in obtaining a stay,

foreclosure proceedings that are stayed by order of the court, by

proceedings in bankruptcy or for any other lawful reason shall,

after release from the stay, continue as if uninterrupted, if

within 30 days after release the trustee sends amended notice of

sale by registered or certified mail to the last-known address of

the persons listed in ORS 86.740 and 86.750 (1).

(b) In addition to the notice required under paragraph (a) of

this subsection, the trustee shall send amended notice of sale:

(A) By registered or certified mail to:

(i) The address provided by each person who was present at the

time and place set for the sale that was stayed; and

(ii) The address provided by each member of the Oregon State

Bar who by registered or certified mail requests the amended

notice of sale and includes with the request the notice of

default or an identification number for the trustee's sale that

would assist the trustee in identifying the property subject to

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the trustee's sale and a self-addressed, stamped envelope

measuring at least 8.5 by 11 inches in size; or

(B) By posting a true copy or a link to a true copy of the

amended notice of sale on the trustee's Internet website.

(13) The amended notice of sale must:

(a) Be given at least 20 days before the amended date of sale;

(b) Set an amended date of sale that may be the same as the

original sale date, or date to which the sale was postponed,

provided the requirements of this subsection and ORS 86.740 and

86.750 are satisfied;

(c) Specify the time and place for sale;

(d) Conform to the requirements of ORS 86.745; and

(e) State that the original sale proceedings were stayed and

the date the stay terminated.

(14) If the publication of the notice of sale was not completed

before the date the foreclosure proceedings were stayed by order

of the court, by proceedings in bankruptcy or for any other

lawful reason, after release from the stay, in addition to

complying with the provisions of subsections (12) and (13) of

this section, the trustee shall complete the publication by

publishing an amended notice of sale that states that the notice

has been amended following release from the stay and that

contains the amended date of sale. The amended notice must be

published in a newspaper of general circulation in each of the

counties in which the property is situated once a week for four

successive weeks, except that the required number of publications

must be reduced by the number of publications that were completed

before the effective date of the stay. The last publication must

be made more than 20 days before the date the trustee conducts

the sale.

SECTION 2. ORS 86.755, as amended by section 7, chapter 510,

Oregon Laws 2011, and section 10, chapter 112, Oregon Laws 2012,

is amended to read:

86.755. (1)(a) A trustee shall hold a trustee's sale on the

date and at the time and place designated in the notice of sale

given under ORS 86.740. The designated time of the trustee's sale

must be after 9 a.m. and before 4 p.m., based on the standard of

time set forth in ORS 187.110, and the designated place of the

trustee's sale must be in the county or one of the counties in

which the property is situated. Except as provided in paragraph

(b) of this subsection, the trustee may sell the property in one

parcel or in separate parcels and shall sell the parcel or

parcels at auction to the highest bidder for cash. Any person,

including the beneficiary under the trust deed, but excluding the

trustee, may bid at the trustee's sale. An attorney for the

trustee, or an agent that the trustee or the attorney designates,

may conduct the sale and act in the sale as the trustee's

auctioneer.

(b) If the trustee sells property upon which a single

residential unit that is subject to an affordable housing

covenant is situated, the eligible covenant holder may purchase

the property from the trustee at the trustee's sale for cash or

cash equivalent in an amount that is the lesser of:

(A) The sum of the amounts payable under ORS 86.765 (1) and

(2); or

(B) The highest bid received for the property other than a bid

from the eligible covenant holder.

(c)(A) Except as provided in subparagraph (B) of this

paragraph, if an eligible covenant holder purchases the property

in accordance with paragraph (b) of this subsection, the sale

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forecloses and terminates all other interests in the property as

provided in ORS 86.770 (1).

(B) If an interest in the property exists that is prior to the

eligible covenant holder's interest, other than the interest set

forth in the trust deed that was the subject of the foreclosure

proceeding under ORS 86.735, notwithstanding the provisions of

ORS 86.770 (1) the sale does not foreclose and terminate the

prior interest and the eligible covenant holder's title to the

property is subject to the prior interest.

(2)(a) The trustee or the attorney for the trustee, or an agent

that the trustee or the attorney conducting the sale designates,

may postpone the sale for one or more periods that total not more

than 180 days from the original sale date, giving notice of each

postponement by public proclamation made at the time and place

set for sale. The trustee, the attorney or an agent that the

trustee or the attorney designates may make the proclamation.

(b) If a person postpones the sale date as provided in

paragraph (a) of this subsection, the trustee, in the manner

provided for service of the notice of sale under ORS 86.740 (1),

shall cause written notice of the new time, date and place for

the sale to be served on the grantor and on any person to whom

notice of the sale was given under ORS 86.745. The notice must be

given at least 15 days before the new sale date. The person may

postpone the sale once, for not more than two calendar days,

without giving notice as provided in this paragraph. The person

may not postpone the sale for more than two calendar days or more

than once without giving notice as provided in this paragraph.

(3) The purchaser shall pay at the time of sale the price bid

or the price determined in accordance with subsection (1)(b) of

this section, and, within 10 days following payment, the trustee

shall execute and deliver the trustee's deed to the purchaser.

{ - (4) The trustee's deed shall convey to the purchaser the

interest in the property that the grantor had, or had the power

to convey, at the time the grantor executed the trust deed,

together with any interest the grantor or the grantor's

successors in interest acquire after the execution of the trust

deed. - }

{ + (4)(a) Within 10 calendar days after the date of the

trustee's sale, the trustee may rescind the trustee's sale and

void the trustee's deed only if:

(A) The trustee asserts that during the trustee's sale a bona

fide error occurred in:

(i) Setting, advertising or otherwise specifying the opening

bid amount for the property that is the subject of the trustee's

sale;

(ii) Providing a correct legal description of the property that

is the subject of the trustee's sale; or

(iii) Complying with a requirement or procedure that is imposed

by law;

(B) The grantor and the beneficiary agreed to a foreclosure

avoidance measure, as defined in section 2, chapter 112, Oregon

Laws 2012, that would postpone or discontinue the trustee's sale;

or

(C) The beneficiary accepted funds to reinstate the trust deed

and obligation in accordance with ORS 86.753, even if the

beneficiary did not have a legal duty to do so.

(b) Within 10 calendar days after the date of the trustee's

sale that the trustee rescinded under paragraph (a) of this

subsection, the trustee shall provide notice of the rescission of

the trustee's sale to any person to whom notice of the sale was

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given. The trustee shall mail or serve notice of the rescission

in the manner provided for serving or mailing the notice of sale

under ORS 86.740 (1). The notice of rescission must:

(A) Display the date on which the trustee mailed the notice,

served the notice or delivered the notice for service; and

(B) State that, and explain why, the trustee rescinded the

trustee's sale and voided the trustee's deed.

(c) Not later than three calendar days after the date displayed

on the rescission notice described in paragraph (b) of this

subsection, the trustee shall refund to the purchaser the amount

the purchaser paid for the property that is the subject of the

rescission notice.

(d) If the trustee rescinded a trustee's sale and voided a

trustee's deed in accordance with this subsection, the trustee,

not later than 21 days after the date of the trustee's sale that

resulted in the rescission, shall present for recording an

affidavit that states that the trustee provided the notice of

rescission described in paragraph (b) of this subsection. The

affidavit must identify the trust deed that was subject to the

rescinded trustee's sale and the voided trustee's deed.

(e) The trustee's deed conveys to the purchaser the interest in

the property that the grantor had, or had the power to convey, at

the time the grantor executed the trust deed, together with any

interest the grantor or the grantor's successors in interest

acquire after the execution of the trust deed. + }

(5)(a) If property purchased at the trustee's sale includes one

or more dwelling units that are subject to ORS chapter 90, the

purchaser must provide written notice of { + the + } change in

ownership to the occupants of each unit within 30 days after the

date of sale and before or concurrently with service of a written

termination notice authorized by subsection (6)(c)(B) of this

section.

(b) The notice required by this subsection must:

(A) Explain that the dwelling unit has been sold at a

foreclosure sale and that the purchaser at { - that - } { +

the foreclosure + } sale is the new owner.

(B) Include the date on which the foreclosure sale took place.

(C) Include the name, contact address and contact telephone

number of the purchaser or the purchaser's representative.

(D) Provide information about the rights of bona fide

residential tenants as provided in subsections (6)(c) and (e) and

(9)(a) of this section.

(E) Include contact information for the Oregon State Bar and a

person or organization that provides legal help to individuals at

no charge to the individual.

(c) The notice must be served by one or more of the following

methods:

(A) Personal delivery to the tenant.

(B) First class mail to the tenant at the dwelling unit.

(C) First class mail to the tenant at the dwelling unit and

attachment of a second notice copy. The second notice copy must

be attached in a secure manner to the main entrance to the

portion of the premises in the possession of the tenant.

(D) If { + the purchaser does not know + } the names of the

tenants

{ - are not known to the purchaser - } , the notice may be

addressed to ' occupants. '

(d) A notice that contains the information required under

paragraph (b)(B) and (C) of this subsection meets the

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requirements of paragraph (b) of this subsection if the notice is

in substantially the following form:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTICE TO RESIDENTIAL TENANTS OF

CHANGE IN OWNERSHIP

The property in which you are living has gone through

foreclosure and was sold to a new owner on \_\_\_\_\_\_\_\_ (date). The

contact information for the new owner or the owner's

representative is \_\_\_\_\_\_\_\_\_\_\_\_\_ (name, address, telephone

number).

IF YOU ARE A BONA FIDE TENANT RENTING THIS PROPERTY AS A

RESIDENTIAL DWELLING, YOU HAVE THE RIGHT TO CONTINUE LIVING IN

THIS PROPERTY AFTER THE FORECLOSURE SALE FOR:

o 60 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION

NOTICE, IF YOU HAVE A FIXED TERM LEASE; OR

o AT LEAST 30 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN

TERMINATION NOTICE, IF YOU HAVE A MONTH-TO-MONTH OR WEEK-TO-WEEK

RENTAL AGREEMENT.

If the new owner wants to move in and use this property as a

primary residence, the new owner can give you written notice and

require you to move out after 30 days, even though you have a

fixed term lease with more than 30 days left.

You must be provided with at least 30 days' written notice

after the foreclosure sale before you can be required to move.

A bona fide tenant is a residential tenant who is not the

borrower (property owner), or a child, spouse or parent of the

borrower, and whose rental agreement:

o Is the result of an arm's-length transaction;

o Requires the payment of rent that is not substantially less

than fair market rent for the property, unless the rent is

reduced or subsidized due to a federal, state or local subsidy;

and

o Was entered into prior to the date of the foreclosure sale.

IMPORTANT:

YOU SHOULD CONTACT THE NEW OWNER OR THE OWNER'S REPRESENTATIVE

AT THE ADDRESS LISTED ON THIS NOTICE AS SOON AS POSSIBLE TO LET

THE NEW OWNER KNOW IF YOU ARE A BONA FIDE TENANT. YOU SHOULD

PROVIDE WRITTEN EVIDENCE OF THE EXISTENCE OF YOUR RENTAL

AGREEMENT, ESPECIALLY IF YOU HAVE A FIXED TERM RENTAL AGREEMENT

OR LEASE WITH MORE THAN 30 DAYS LEFT. Written evidence of your

rental agreement can be a copy of your lease or rental agreement,

or other documentation of the existence of your rental agreement.

Keep your original documents and a record of any information you

give to the new owner.

YOUR TENANCY

BETWEEN NOW

AND THE MOVE-OUT DATE

The new owner may be willing to allow you to stay as a tenant

instead of requiring you to move out after 30 or 60 days. You

should contact the new owner if you would like to stay. If the

new owner accepts rent from you, signs a new residential rental

agreement with you or does not notify you in writing within 30

days after the date of the foreclosure sale that you must move

out, the new owner becomes your new landlord and must maintain

the property. Otherwise:

o You do not owe rent;

o The new owner is not your landlord and is not responsible for

maintaining the property; and

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o You must move out by the date the new owner specifies in a

notice to you.

The new owner may offer to pay your moving expenses and any

other costs or amounts you and the new owner agree on in exchange

for your agreement to leave the premises in less than 30 or 60

days. You should speak with a lawyer to fully understand your

rights before making any decisions regarding your tenancy.

IT IS UNLAWFUL FOR ANY PERSON TO TRY TO FORCE YOU TO LEAVE YOUR

DWELLING UNIT WITHOUT FIRST GIVING YOU WRITTEN NOTICE AND GOING

TO COURT TO EVICT YOU. FOR MORE INFORMATION ABOUT YOUR RIGHTS,

YOU SHOULD CONSULT A LAWYER. If you believe you need legal

assistance, contact the Oregon State Bar and ask for the lawyer

referral service. Contact information for the Oregon State Bar is

included with this notice. If you do not have enough money to pay

a lawyer and are otherwise eligible, you may be able to receive

legal assistance for free. Information about whom to contact for

free legal assistance is included with this notice.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(6)(a) Except as provided in paragraph (b) or (c) of this

subsection, the purchaser at the trustee's sale is entitled to

possession of the property on the 10th day after the sale. A

person that remains in possession after the 10th day under any

interest, except an interest prior to the trust deed, or an

interest the grantor or a successor of the grantor created

voluntarily, is a tenant at sufferance. The purchaser may obtain

possession of the property from a tenant at sufferance by

following the procedures set forth in ORS 105.105 to 105.168 or

other applicable judicial procedure.

(b) Except as provided in paragraph (c) of this subsection, at

any time after the trustee's sale the purchaser may follow the

procedures set forth in ORS 105.105 to 105.168 or other

applicable judicial procedure to obtain possession of the

property from a person that holds possession under an interest

that the grantor or a successor of the grantor created

voluntarily if, not earlier than 30 days before the date first

set for the sale, the person was served with not less than 30

days' written notice of the requirement to surrender or deliver

possession of the property.

(c) If the property purchased at the trustee's sale includes a

dwelling unit that is subject to ORS chapter 90 and an individual

occupies the unit under a bona fide tenancy, the purchaser may

obtain possession by following the procedures set forth in ORS

105.105 to 105.168 and by using the complaint form provided in

ORS 105.124 or 105.126:

(A) At least 60 days after service of a written termination

notice, if the bona fide tenancy is a fixed term tenancy as

defined in ORS 90.100; or

(B) At least 30 days after service of a written termination

notice if the bona fide tenancy is:

(i) A fixed term tenancy and the purchaser intends to occupy,

as the purchaser's primary residence, the dwelling unit that is

subject to the fixed term tenancy; or

(ii) A month-to-month tenancy or week-to-week tenancy, as those

terms are defined in ORS 90.100.

(d) If a purchaser gives a 30-day written termination notice

pursuant to paragraph (c) of this subsection, the purchaser may

include in the notice a request that a tenant with a fixed term

tenancy provide written evidence of the existence of the tenancy

to the purchaser at an address described in the notice. Written

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evidence includes a copy of the rental agreement or another

document that shows the existence of the fixed term tenancy.

{ - Failure of the tenant - } { + The tenant's failure + } to

provide the requested written evidence before the purchaser files

an action for possession based on a 30-day notice:

(A) Does not prevent the tenant from asserting the existence of

the fixed term tenancy as a defense to the action.

(B) Prevents the tenant from recovering prevailing party

attorney fees or costs and disbursements pursuant to subsection

(11)(b) of this section. The 30-day notice must describe the

provisions of this paragraph.

(e) A purchaser may not commence a proceeding under ORS 105.105

to 105.168 that is authorized under this subsection before the

later of:

(A) The 10th day after the trustee's sale;

(B) The date specified in a written notice of the requirement

to surrender or deliver possession of the property if the notice

is required by and is given to the person in accordance with

paragraph (b) of this subsection;

(C) The date specified in a written notice of the purchaser's

intent to terminate a tenancy if the notice is required by and is

given to the person in accordance with paragraph (c) of this

subsection; or

(D) The date on which the term of a fixed term tenancy ends, if

the property is a dwelling unit and the purchaser has not

terminated the tenancy in accordance with paragraph (c) of this

subsection.

(f) A purchaser { - seeking - } { + that seeks + } to

obtain possession pursuant to ORS 105.105 to 105.168 must attach

proof of service of a written termination notice required by

paragraph (c) of this subsection to the pleadings.

(g) In an action to obtain possession, violation of the

procedures required by subsection (5) of this section or

paragraph (c) of this subsection is a defense for a bona fide

tenant seeking to retain possession.

(h) As used in this subsection, 'bona fide tenancy' means

tenancy of a dwelling unit that is subject to ORS chapter 90 that

results from an arm's-length transaction that occurred before the

date of a foreclosure sale in which:

(A) The mortgagor or the child, spouse or parent of the

mortgagor under the contract is not the tenant; and

(B) The rent required is not substantially less than fair

market rent for the dwelling unit, unless the rent is reduced or

subsidized due to a federal, state or local subsidy.

(7) A purchaser shall serve a notice under subsection (6) of

this section by one or more of the following methods:

(a) Personal delivery to the tenant.

(b) First class mail to the tenant at the dwelling unit.

(c) First class mail to the tenant at the dwelling unit and

attachment of a second notice copy. The second notice copy must

be attached in a secure manner to the main entrance to the

portion of the premises in the possession of the tenant.

(8) If the notice under subsection (6) of this section is

served by mail pursuant to subsection (7)(b) of this section, the

minimum period for compliance must be extended by three days and

the notice must include the extension in the period stated in the

notice.

(9)(a) Notwithstanding the provisions of subsection (6)(c) of

this section and except as provided in paragraph (b) of this

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subsection, the purchaser is not a landlord subject to the

provisions of ORS chapter 90 unless the purchaser:

(A) Accepts rent from the individual who possesses the property

under a tenancy described in subsection (6)(c) of this section;

(B) Enters into a new rental agreement with the individual who

possesses the property under a tenancy described in subsection

(6)(c) of this section; or

(C) Fails to terminate the tenancy as provided in subsection

(6)(c) of this section within 30 days after the date of the sale.

(b) The purchaser may act as a landlord for purposes of

terminating a tenancy in accordance with the provisions of ORS

90.396.

(c) The purchaser is subject to the provisions of ORS 90.322,

90.375, 105.165, 659A.421 and 659A.425. The application of ORS

90.375 to a purchaser that does not become a landlord does not

impose an affirmative duty to pay for or provide services. For

the purpose of damages pursuant to this paragraph, 'rent' refers

to the amount { - paid by - } the tenant { + pays + } to the

landlord for the right to occupy the unit before the foreclosure.

(10)(a) Except as provided in paragraph (b) of this subsection,

the purchaser is not liable to the individual who possesses the

property under a tenancy described in subsection (6)(c) of this

section for:

(A) Damage to the property or diminution in rental value; or

(B) Returning a security deposit.

(b) A purchaser that is a landlord under the provisions of

subsection (9)(a) of this section is liable to the individual who

possesses the property under a tenancy described in subsection

(6)(c) of this section for:

(A) Damage to the property or diminution in rental value that

occurs after the date of the trustee's sale; or

(B) Returning a security deposit the individual pays after the

date of the trustee's sale.

(11)(a) Except as provided in paragraph (b) of this subsection

and notwithstanding an agreement to the contrary, in an action or

defense arising pursuant to subsection (6)(c), (d), (f) or (g),

(7) or (9)(c) of this section, reasonable attorney fees at trial

and on appeal may be awarded to the prevailing party together

with costs and disbursements.

(b) If a tenant asserts a successful defense to an action for

possession pursuant to subsection (6)(c), (d), (f) or (g) of this

section, the tenant is not entitled to prevailing party fees,

attorney fees or costs and disbursements if the purchaser:

(A) Did not know, and did not have reasonable cause to know, of

the existence of a fixed term tenancy when commencing the action

for possession; and

(B) Promptly dismissed the action upon becoming aware of the

existence of a fixed term tenancy.

(c) As used in this subsection, 'prevailing party' means the

party in whose favor final judgment is rendered.

(12)(a) Notwithstanding subsection (2) of this section, except

when a beneficiary has participated in obtaining a stay,

foreclosure proceedings that are stayed by order of the court, by

proceedings in bankruptcy or for any other lawful reason shall,

after release from the stay, continue as if uninterrupted, if

within 30 days after release the trustee sends amended notice of

sale by registered or certified mail to the last-known address of

the persons listed in ORS 86.740 and 86.750 (1).

(b) In addition to the notice required under paragraph (a) of

this subsection, the trustee shall send amended notice of sale:

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(A) By registered or certified mail to:

(i) The address provided by each person who was present at the

time and place set for the sale that was stayed; and

(ii) The address provided by each member of the Oregon State

Bar who by registered or certified mail requests the amended

notice of sale and includes with the request the notice of

default or an identification number for the trustee's sale that

would assist the trustee in identifying the property subject to

the trustee's sale and a self-addressed, stamped envelope

measuring at least 8.5 by 11 inches in size; or

(B) By posting a true copy or a link to a true copy of the

amended notice of sale on the trustee's Internet website.

(13) The amended notice of sale must:

(a) Be given at least 20 days before the amended date of sale;

(b) Set an amended date of sale that may be the same as the

original sale date, or date to which the sale was postponed,

provided the requirements of this subsection and ORS 86.740 and

86.750 are satisfied;

(c) Specify the time and place for sale;

(d) Conform to the requirements of ORS 86.745; and

(e) State that the original sale proceedings were stayed and

the date the stay terminated.

(14) If the publication of the notice of sale was not completed

before the date the foreclosure proceedings were stayed by order

of the court, by proceedings in bankruptcy or for any other

lawful reason, after release from the stay, in addition to

complying with the provisions of subsections (12) and (13) of

this section, the trustee shall complete the publication by

publishing an amended notice of sale that states that the notice

has been amended following release from the stay and that

contains the amended date of sale. The amended notice must be

published in a newspaper of general circulation in each of the

counties in which the property is situated once a week for four

successive weeks, except that the required number of publications

must be reduced by the number of publications that were completed

before the effective date of the stay. The last publication must

be made more than 20 days before the date the trustee conducts

the sale.

SECTION 3. ORS 86.790 is amended to read:

86.790. (1) The trustee of a trust deed under ORS 86.705 to

86.795 { - shall not be - } { + :

(a) Is not + } required to comply with the provisions of ORS

chapters 707 and 709 { + . + }

{ + (b) + } { - and shall - } { + Must + } be:

{ - (a) - } { + (A) + } { - Any - } { + An + } attorney

who is an active member of the Oregon State Bar;

{ - (b) - } { + (B) + } A financial institution or trust

company, as defined in ORS 706.008, that is authorized to do

business under the laws of Oregon or the United States;

{ - (c) - } { + (C) + } A title insurance company { + or a

subsidiary, affiliate, insurance producer or branch of the title

insurance company that is + } authorized to insure title to real

property in this state { - , its subsidiaries, affiliates,

insurance producers or branches - } ;

{ - (d) - } { + (D) + } The United States or any agency

{ - thereof - } { + of the United States + }; or

{ - (e) - } { + (E) An + } escrow { - agents - } { +

agent who is + } licensed under ORS 696.505 to 696.590.

{ + (c) Shall obtain from the Secretary of State a

certificate of authority to transact business in this state as a

Enrolled House Bill 2929 (HB 2929-B) Page 15

foreign business entity, if the trustee is a person described in

paragraph (b)(B) or (C) of this subsection, unless the trustee

has registered with or obtained a certificate of authority from

the Director of the Department of Consumer and Business

Services. + }

(2) An attorney who is a trustee under subsection

{ - (1)(a) - } { + (1)(b)(A) + } of this section may represent

the beneficiary in addition to performing the duties of trustee.

(3) At any time after the trust deed is executed, the

beneficiary may appoint in writing another qualified trustee. If

the appointment of the successor trustee is recorded in the

mortgage records of the county or counties in which the trust

deed is recorded, the successor trustee { - shall be vested

with all - } { + has + } the powers of the original trustee.

(4) A trustee or successor trustee is a necessary and proper

party to any proceeding to determine the validity of or enjoin

any private or judicial proceeding to foreclose a trust deed, but

a trustee or successor trustee is neither a necessary nor a

proper party to any proceeding to determine title to the property

subject to the trust deed, or to any proceeding to impose,

enforce or foreclose any other lien on the subject property.

(5) { - Nothing in - } { + The provisions of + } ORS 86.705

to 86.795

{ - imposes - } { + do not impose + } a duty on the trustee

or successor trustee to notify any person of any proceeding with

respect to { - such - } { + the + } person, except a

proceeding { - initiated by - } { + that + } the trustee or

successor trustee { + initiates + }.

(6) A trustee or the attorney for the trustee or any agent

{ - designated by - } { + that + } the trustee or the

attorney { + designates + } may announce and accept a bid from

the beneficiary whether or not the beneficiary is present at the

sale.

(7) The trustee or successor trustee { - shall have no - }

{ + does not have a + } fiduciary duty or fiduciary obligation

to the grantor or other persons { + that have + }

{ - having - } an interest in the property subject to the trust

deed. The trustee or successor trustee { - shall not be - }

{ + is not + } relieved of the duty to reconvey the property

subject to the trust deed to the grantor { - upon request for

reconveyance by - } { + when + } the beneficiary { + requests

a reconveyance + }.

SECTION 4. ORS 86.705, as amended by section 5, chapter 112,

Oregon Laws 2012, is amended to read:

86.705. As used in ORS 86.705 to 86.795:

(1) 'Affordable housing covenant' has the meaning given that

term in ORS 456.270.

(2) 'Beneficiary' means a person named or otherwise designated

in a trust deed as the person for whose benefit a trust deed is

given, or the person's successor in interest, and who is not the

trustee unless the beneficiary is qualified to be a trustee under

ORS 86.790 { - (1)(d) - } { + (1)(b)(D) + }.

(3) 'Eligible covenant holder' has the meaning given that term

in ORS 456.270.

(4) 'Grantor' means the person that conveys an interest in real

property by a trust deed as security for the performance of an

obligation.

(5) 'Residential trust deed' means a trust deed on property

upon which are situated four or fewer residential units, one of

which the grantor, the grantor's spouse or the grantor's minor or

Enrolled House Bill 2929 (HB 2929-B) Page 16

dependent child occupies as a principal residence at the time a

default that results in an action to foreclose the obligation

secured by the trust deed first occurs.

(6) 'Residential unit' means an improvement designed for

residential use.

(7) 'Trust deed' means a deed executed in conformity with ORS

86.705 to 86.795 that conveys an interest in real property to a

trustee in trust to secure the performance of an obligation the

grantor or other person named in the deed owes to a beneficiary.

(8) 'Trustee' means a person, other than the beneficiary, to

whom a trust deed conveys an interest in real property, or the

person's successor in interest, or an employee of the

beneficiary, if the employee is qualified to be a trustee under

ORS 86.790.

SECTION 5. { + The amendments to ORS 86.705, 86.755 and 86.790

by sections 1 to 4 of this 2013 Act apply to trustee's sales that

occur on or after the effective date of this 2013 Act. + }

SECTION 6. { + If House Bill 2569 becomes law, section 3 of

this 2013 Act (amending ORS 86.790) is repealed and ORS 86.790,

as amended by section 2, chapter 125, Oregon Laws 2013 (Enrolled

House Bill 2569), is amended to read: + }

86.790. (1) The trustee of a trust deed under ORS 86.705 to

86.795 { + :

(a) + } Is not required to comply with the provisions of ORS

chapters 707 and 709 { - and - } { + .

(b) + } Must be:

{ - (a) - } { + (A) + } An attorney who is an active member

of the Oregon State Bar or a law practice that includes an

attorney who is an active member of the Oregon State Bar;

{ - (b) - } { + (B) + } A financial institution or trust

company, as defined in ORS 706.008, that is authorized to do

business under the laws of Oregon or the United States;

{ - (c) - } { + (C) + } A title insurance company { + or a

subsidiary, affiliate, insurance producer or branch of the title

insurance company that is + } authorized to insure title to real

property in this state { - and the subsidiaries, affiliates,

insurance producers or branches of the title insurance

company - } ;

{ - (d) - } { + (D) + } The United States or any agency of

the United States; or

{ - (e) - } { + (E) + } An escrow agent that is licensed

under ORS 696.505 to 696.590.

{ + (c) Shall obtain from the Secretary of State a

certificate of authority to transact business in this state as a

foreign business entity, if the trustee is a person described in

paragraph (b)(B) or (C) of this subsection, unless the trustee

has registered with or obtained a certificate of authority from

the Director of the Department of Consumer and Business

Services. + }

(2) A law practice that, or an attorney who, is a trustee under

subsection { - (1)(a) - } { + (1)(b)(A) + } of this section

may represent the beneficiary in addition to performing the

duties of trustee.

(3) At any time after a trust deed is executed, the beneficiary

may appoint in writing another qualified trustee. If the

appointment of the successor trustee is recorded in the mortgage

records of the county or counties in which the trust deed is

recorded, the successor trustee { - is vested with all - }

{ + has + } the powers of the original trustee.

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(4) A trustee or successor trustee is a necessary and proper

party to any proceeding to determine the validity of a trust

deed, or to enjoin any private or judicial proceeding to

foreclose a trust deed, but a trustee or successor trustee is not

a necessary or proper party to any proceeding to determine title

to the property subject to the trust deed, or to any proceeding

to impose, enforce or foreclose any other lien on the subject

property.

(5) { - Nothing in - } { + The provisions of + } ORS 86.705

to 86.795

{ - imposes - } { + do not impose + } a duty on the trustee

or successor trustee to notify any person of any proceeding with

respect to the person, except a proceeding that the trustee or

successor trustee initiates.

(6) A trustee or the attorney for the trustee or any agent

{ + that + } the trustee or the attorney designates may

announce and accept a bid from the beneficiary whether or not the

beneficiary is present at the sale.

(7) The trustee or successor trustee { - has no - }

{ + does not have a + } fiduciary duty or fiduciary obligation

to the grantor or other persons that have an interest in the

property subject to the trust deed. The trustee or successor

trustee { - may not be - } { + is not + } relieved of the

duty to reconvey the property that is subject to the trust deed

to the grantor { - upon the beneficiary's request for - }

{ + when the beneficiary requests a + } reconveyance.

(8) If a law practice is the trustee under subsection

{ - (1)(a) - } { + (1)(b)(A) + } of this section, an attorney

who is an active member of the Oregon State Bar and is a

shareholder, partner, member or employee of the law practice

shall sign on the trustee's behalf any document that is permitted

or required to be signed under ORS 86.705 to 86.795. The attorney

who signs the document shall make evident in the document the

attorney's name and Oregon State Bar number and shall state in

the document that the trustee has authorized the attorney to sign

the document on the trustee's behalf.

(9) If an attorney is the trustee under subsection

{ - (1)(a) - } { + (1)(b)(A) + } of this section, another

attorney who is an active member of the Oregon State Bar and is a

shareholder, partner, member or employee of the law practice in

which the attorney practices law may sign on the trustee's behalf

any document that is permitted or required to be signed under ORS

86.705 to 86.795. The attorney who signs the document shall make

evident in the document the attorney's name and Oregon State Bar

number and shall state in the document that the trustee has

authorized the attorney to sign the document on the trustee's

behalf.

SECTION 7. If House Bill 2569 becomes law, section 5 of this

2013 Act is amended to read:

{ + Sec. 5. + } The amendments to ORS 86.705, 86.755 and

86.790 by sections 1 { - to 4 - } { + , 2, 4 and 6 + } of this

2013 Act apply to trustee's sales that occur on or after the

effective date of this 2013 Act.

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Enrolled House Bill 2929 (HB 2929-B) Page 18

Passed by House April 16, 2013

Repassed by House June 13, 2013

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Ramona J. Line, Chief Clerk of House

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