

# Senate Bill 301

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## 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 alternative means for trustee to serve notice of sale on property occupant. Revises requirement for trustee to publish notice of sale. Limits ability to challenge trustee publication of notice of sale in qualifying newspaper. Expands requirements for trustee to file affidavits concerning service of notice of sale.

## A BILL FOR AN ACT

1  
2 Relating to trustee notices of sale; amending ORS 86.750.

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

4 **SECTION 1.** ORS 86.750 is amended to read:

5 86.750. (1)(a) **Except as provided in paragraph (b) of this subsection**, the notice prescribed  
6 in ORS 86.745 shall be served upon an occupant of the property described in the trust deed in the  
7 manner in which a summons is served pursuant to ORCP 7 D(2) and 7 D(3) at least 120 days before  
8 the day the trustee conducts the sale.

9 **(b)(A) If service cannot be effected on an occupant as provided in paragraph (a) of this**  
10 **subsection on the first attempt, the person attempting service shall post a copy of the notice**  
11 **in a conspicuous place on the property on the date of the first attempt. The person at-**  
12 **tempting service shall make a second attempt to effect service on a day that is at least two**  
13 **days after the first attempt.**

14 **(B) If service cannot be effected on an occupant as provided in paragraph (a) of this**  
15 **subsection on the second attempt, the person attempting service shall post a copy of the**  
16 **notice in a conspicuous place on the property on the date of the second attempt. The person**  
17 **attempting service shall make a third attempt to effect service on a day that is at least two**  
18 **days after the second attempt.**

19 **(C) If service cannot be effected on an occupant as provided in paragraph (a) of this**  
20 **subsection on the third attempt, the person attempting service shall send a copy of the no-**  
21 **tice, bearing the word "occupant" as the addressee, to the property address by first class**  
22 **mail with postage prepaid.**

23 **(c) Service on an occupant is deemed effected on the earlier of the date that notice is**  
24 **served as provided in paragraph (a) of this subsection or the first date on which notice is**  
25 **posted as described in paragraph (b)(A) of this subsection.**

26 **(2) The trustee shall cause a copy of the notice of sale [*shall*] to be published **once a week****  
27 **for four successive weeks in each county in which the property is located in a newspaper [*of***  
28 ***general circulation in each of the counties in which the property is situated once a week for four suc-***  
29 ***cessive weeks*] **selected by the trustee that is published in that county.** The last publication of**

**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 **the notice** shall be made more than 20 days prior to the date the trustee conducts the sale. **The**  
2 **trustee’s selection of a newspaper described in this subsection for the purpose of publishing**  
3 **a notice is not subject to judicial review and is not grounds for setting aside a foreclosure**  
4 **or awarding damages. As used in this subsection, “newspaper” has the meaning given that**  
5 **term in ORS 193.010. ORS 193.020 (2) and (4) do not apply to the publication of a notice de-**  
6 **scribed in this subsection.**

7 (3) On or before the date the trustee conducts the sale, **the trustee shall file the following**  
8 **with respect to the notice of sale for recording in the official record of the county or coun-**  
9 **ties in which the property described in the deed is situated:**

10 (a) An affidavit of mailing, **if any** [*notice of sale, proof of service (if any),*];

11 (b) **An affidavit of service, if any;**

12 (c) **An affidavit of service attempts and posting, if any;** and

13 (d) An affidavit of publication [*of notice of sale shall be recorded in the official records in the*  
14 *county or counties in which the property described in the deed is situated*].

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