

HOUSE AMENDMENTS TO HOUSE BILL 3004

By COMMITTEE ON CONSUMER PROTECTION

April 30

1 On page 1 of the printed bill, delete lines 5 through 30 and insert:

2 **“SECTION 1.** ORS 86.770 is amended to read:

3 *“86.770. [(1) A sale made by a trustee under ORS 86.705 to 86.795 shall foreclose and terminate*
4 *all interest in the property covered by the trust deed of all persons to whom notice is given under ORS*
5 *86.740 and 86.750 and of any other person claiming by, through or under such persons, and such per-*
6 *sons shall have no right to redeem the property from the purchaser at the trustee’s sale. The failure to*
7 *give notice to any of these persons shall not affect the validity of the sale as to persons so notified.]*

8 *“[(2) Except as provided in subsection (4) of this section, no other or further action shall be*
9 *brought, nor judgment entered for any deficiency, against the grantor, or the grantor’s successor in*
10 *interest, if any, on the note, bond, or other obligation secured by the trust deed or against any other*
11 *person obligated on such note, bond or other obligation after a sale is made:]*

12 *“[(a) By a trustee under ORS 86.705 to 86.795; or]*

13 *“[(b) Under a judicial foreclosure of a residential trust deed.]*

14 *“[(3) Notwithstanding ORS 88.070, when there is a judicial foreclosure of a trust deed that is not*
15 *a residential trust deed, the judgment shall provide that if the sale proceeds are insufficient to satisfy*
16 *the judgment, execution may issue for any amount by which the unpaid balance of the obligation se-*
17 *cured by the trust deed exceeds the net sale proceeds payable to the beneficiary.]*

18 *“[(4) Nothing in this section shall preclude an action judicially or nonjudicially foreclosing the*
19 *same trust deed as to any other property covered thereby, or any other trust deeds, mortgages, security*
20 *agreements, or other consensual or nonconsensual security interest or liens covering any other real or*
21 *personal property security for the note, bond or other obligation secured by the trust deed under which*
22 *a sale has been made or an action against a guarantor to the extent of any remaining deficiency fol-*
23 *lowing judicial foreclosure. A guarantor of an obligation secured by a residential trust deed shall not*
24 *have the right to recover any deficiency from the grantor or any successor in interest of the grantor.]*

25 **“(1) If, under ORS 86.705 to 86.795, a trustee sells property covered by a trust deed, the**
26 **trustee’s sale forecloses and terminates the interest in the property that belongs to a person**
27 **entitled to notice of the sale under ORS 86.740 and 86.750 or to a person that claims an in-**
28 **terest by, through or under the person entitled to notice. A person whose interest the trust-**
29 **tee’s sale foreclosed and terminated may not redeem the property from the purchaser at the**
30 **trustee’s sale. A failure to give notice to a person entitled to notice does not affect the va-**
31 **lidity of the sale as to persons that were notified.**

32 **“(2) Except as provided in subsection (4) of this section, after a trustee’s sale under ORS**
33 **86.705 to 86.795 or after a judicial foreclosure of a residential trust deed, an action may not**
34 **be brought or a judgment entered for a deficiency against the grantor, the grantor’s suc-**
35 **cessor in interest or another person obligated on the note, bond or other obligation secured**

1 by the residential trust deed.

2 “(3) Notwithstanding ORS 88.070, in a judicial foreclosure of a trust deed that is not a
3 residential trust deed the judgment must provide that if the sale proceeds are insufficient
4 to satisfy the judgment, execution may issue for the amount by which the unpaid balance
5 of the obligation secured by the trust deed exceeds the net sale proceeds payable to the
6 beneficiary.

7 “(4) This section does not preclude:

8 “(a) An action that forecloses, judicially or nonjudicially:

9 “(A) Other property covered by the trust deed that is the subject of the foreclosure; or

10 “(B) Another trust deed, mortgage, security agreement, consensual or nonconsensual
11 security interest or lien that covers other real or personal property that is also used as se-
12 curity for the note, bond or other obligation that is secured by the trust deed for the prop-
13 erty that was sold.

14 “(b) An action against a guarantor for a deficiency that remains after a judicial foreclo-
15 sure.

16 “(c) An action for a deficiency that remains after a trustee’s sale or a judicial foreclosure
17 of a residential trust deed, if the person that brings the action or an affiliate of the person
18 that brings the action:

19 “(A) Does not foreclose on the residential trust deed, judicially or nonjudicially;

20 “(B) Does not receive proceeds from the trustee’s sale; and

21 “(C) Is not the trustee or beneficiary in the residential trust deed that is the subject of
22 the foreclosure.

23 “(5) A guarantor of an obligation secured by a residential trust deed may not recover a
24 deficiency from the grantor or a successor in interest of the grantor.

25 “(6) As used in subsection (4) of this section, ‘affiliate’ means a person that controls, is
26 controlled by or is under common control with the person that brings an action under sub-
27 section (4)(c) of this section.”.

28 On page 2, delete lines 1 through 8.
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