

**SENATE AMENDMENTS TO  
A-ENGROSSED SENATE BILL 628**

By COMMITTEE ON RULES

June 11

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the rest of the line and line  
2 3 and insert “86.750 and section 20, chapter 19, Oregon Laws 2008; and declaring an emergency.”.

3 Delete lines 5 through 25 and delete pages 2 through 7 and insert:

4 “**SECTION 1.** Section 20, chapter 19, Oregon Laws 2008, is amended to read:

5 “**Sec. 20.** (1) If a notice of default is recorded for property that is subject to a residential trust  
6 deed, the sender of a notice of sale under ORS 86.740 shall, on or before the date the notice of sale  
7 is served or mailed, give notice under this section to the grantor by both first class and certified  
8 mail with return receipt requested. Subject to any rules adopted under subsection (2) of this section,  
9 the notice must be in substantially the following form and printed in at least 14-point type:

10 “ \_\_\_\_\_

11  
12 NOTICE:

13 YOU ARE IN DANGER OF LOSING  
14 YOUR PROPERTY IF YOU DO NOT  
15 TAKE ACTION IMMEDIATELY

16  
17 This notice is about your mortgage loan on your property at \_\_\_\_\_ (address).

18  
19 Your lender has decided to sell this property because the money due on your mortgage loan has not  
20 been paid on time or because you have failed to fulfill some other obligation to your lender. This  
21 is sometimes called “foreclosure.”

22  
23 The amount you would have had to pay as of \_\_\_\_\_ (date) to bring your mortgage loan current  
24 was \$\_\_\_\_\_. The amount you must now pay to bring your loan current may have increased since  
25 that date.

26  
27 By law, your lender has to provide you with details about the amount you owe, if you ask. You may  
28 call \_\_\_\_\_ (telephone number) to find out the exact amount you must pay to bring your  
29 mortgage loan current and to get other details about the amount you owe. You may also get these  
30 details by sending a request by certified mail to: \_\_\_\_\_.

31  
32 THIS IS WHEN AND WHERE  
33 YOUR PROPERTY WILL BE SOLD  
34 IF YOU DO NOT TAKE ACTION:

1 Date and time: \_\_\_\_\_, 2\_\_\_\_\_ at \_\_\_\_\_

2

3 Place: \_\_\_\_\_

4

5

THIS IS WHAT YOU CAN DO

6

TO STOP THE SALE:

7

8 1. You can pay the amount past due or correct any other default, up to five days before the sale.

9 2. You can refinance or otherwise pay off the loan in full anytime before the sale.

10 3. You can [call \_\_\_\_\_ (name) at \_\_\_\_\_ (telephone number) to find out if your  
11 lender is willing to] **request that your lender** give you more time or change the terms of your loan.

12 4. You can sell your home, provided the sale price is enough to pay what you owe.

13

14 There are government agencies and nonprofit organizations that can give you information about  
15 foreclosure and help you decide what to do. For the name and telephone number of an organization  
16 near you, please call the statewide telephone contact number at \_\_\_\_\_. You may also  
17 wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's  
18 Lawyer Referral Service at \_\_\_\_\_ or toll-free in Oregon at \_\_\_\_\_ or you may  
19 visit its website at: \_\_\_\_\_. Legal assistance may be available if you have a low income  
20 and meet federal poverty guidelines. For more information and a directory of legal aid programs,  
21 go to \_\_\_\_\_.

22

23 **Your lender may be willing to modify your loan to reduce the interest rate, reduce the**  
24 **monthly payments or both. You can get information about possible loan modification pro-**  
25 **grams by contacting your lender at \_\_\_\_\_. If you can't reach your lender, you may**  
26 **contact the trustee at the telephone number at the bottom of this notice. If you have already**  
27 **entered into a loan modification with your lender, it is possible that you will not be able to**  
28 **modify your loan again unless your circumstances have changed. Your lender is not obligated**  
29 **to modify your loan.**

30

31 **You may request to meet with your lender to discuss options for modifying your loan. During**  
32 **discussions with your lender, you may have the assistance of a lawyer, a housing counselor**  
33 **or another person of your choosing. To receive a referral to a housing counselor or other**  
34 **assistance available in your community, call this toll-free consumer mortgage foreclosure**  
35 **information number: \_\_\_\_\_. Many lenders participate in new federal loan modifi-**  
36 **cation programs. You can obtain more information about these programs**  
37 **at: \_\_\_\_\_.**

38

39 **IF YOU WANT TO APPLY TO MODIFY YOUR LOAN, YOU MUST FILL OUT AND MAIL**  
40 **BACK THE ENCLOSED "MODIFICATION REQUEST FORM." YOUR LENDER MUST RE-**  
41 **CEIVE THE FORM BY \_\_\_\_\_, WHICH IS 30 DAYS AFTER THE DATE SHOWN**  
42 **BELOW.**

43

44 **WARNING:** You may get offers from people who tell you they can help you keep your property. You  
45 should be careful about those offers. Make sure you understand any papers you are asked to sign.

1 If you have any questions, talk to a lawyer or one of the organizations mentioned above before  
2 signing.

3  
4 DATED: \_\_\_\_\_, 2\_\_\_\_\_

5  
6 Trustee name: \_\_\_\_\_ (print)

7  
8 Trustee signature: \_\_\_\_\_

9  
10 Trustee telephone number: \_\_\_\_\_

11 “ \_\_\_\_\_

12  
13 “(2) The Department of Consumer and Business Services may adopt rules prescribing the format,  
14 font size and other physical characteristics of the notice form set forth in subsection (1) of this  
15 section. The department shall adopt rules specifying the [statewide] resource telephone contact  
16 numbers and website addresses the sender is to insert in completing the notice.

17 “(3) When filling blanks in the notice form set forth in subsection (1) of this section, the sender  
18 of the notice shall include, stated in plain language:

19 “(a) The amount of payment that was needed to bring the mortgage loan current as of the date  
20 stated in the notice; and

21 “(b) One or more telephone numbers consisting of:

22 “(A) A telephone number that will allow the grantor access during regular business hours to  
23 details regarding the grantor’s loan delinquency and repayment information; and

24 “(B) A telephone number that will allow the grantor access during regular business hours to  
25 person-to-person consultation with an individual authorized by the beneficiary to discuss the  
26 grantor’s payment and loan term negotiation and modification options.

27 “(4) Telephone numbers described in subsection (3) of this section must be toll-free numbers  
28 unless the beneficiary:

29 “(a) Made the loan with the beneficiary’s own money;

30 “(b) Made the loan for the beneficiary’s own investment; and

31 “(c) Is not in the business of making loans secured by an interest in real estate.

32 “(5) If the sender giving notice under subsection (1) of this section has actual knowledge that  
33 the grantor is not the occupant of the residential real property, the sender shall also give notice to  
34 the occupant of the property by both first class and certified mail with return receipt requested.

35 “(6) **The notice required under subsection (1) of this section must be accompanied by a**  
36 **form to request a loan modification. The form must include the address to which and state**  
37 **the date by which the grantor must return the form. The date must be 30 days after the date**  
38 **on which the trustee signs the notice. The form may state that the grantor must disclose**  
39 **current information about the grantor’s income and expenses, the grantor’s address, phone**  
40 **number and electronic mail address and other facts that may affect the grantor’s eligibility**  
41 **for a loan modification.**

42 “**SECTION 2.** Sections 3 and 3a of this 2009 Act are added to and made a part of ORS  
43 86.705 to 86.795.

44 “**SECTION 3.** (1) If a grantor returns the form identified in section 20 (6), chapter 19,  
45 Oregon Laws 2008, to the lender by the date specified on the form, the beneficiary or an

1 agent of the beneficiary shall review the information the grantor provided in the form and,  
2 in good faith, shall process the grantor's request. The beneficiary or the beneficiary's agent  
3 within 30 days after receiving the form shall notify the grantor whether the beneficiary ap-  
4 proves or denies the request or requires additional information. A trustee's sale for the  
5 property subject to the loan may not occur until after the beneficiary or the beneficiary's  
6 agent timely responds to the grantor. During the 30-day period, the beneficiary or the bene-  
7 ficiary's agent may request the grantor to provide additional information required to deter-  
8 mine whether the loan can be modified.

9 “(2)(a) Except as provided in paragraph (b) of this subsection, if the grantor timely re-  
10 quests a meeting with the beneficiary, the beneficiary or the beneficiary's agent shall meet  
11 with the grantor in person or shall speak to the grantor by telephone before the beneficiary  
12 or the beneficiary's agent responds to the grantor's request to modify the loan. If the  
13 grantor requests the meeting, the beneficiary or the beneficiary's agent shall take reasonable  
14 steps to schedule the meeting by contacting the grantor at the grantor's last known address  
15 or telephone number or at the grantor's electronic mail address, if the grantor indicates on  
16 the loan modification form that the beneficiary or the beneficiary's agent can contact the  
17 grantor at the electronic mail address.

18 “(b) A beneficiary or the beneficiary's agent complies with the provisions of paragraph  
19 (a) of this subsection even if the beneficiary or beneficiary's agent does not speak to or meet  
20 with the grantor if, within seven business days after the beneficiary or beneficiary's agent  
21 attempts to contact the grantor, the grantor does not respond.

22 “(c) The beneficiary or the beneficiary's agent that meets with the grantor shall have or  
23 be able to obtain authority to modify the loan.

24 “(3)(a) The beneficiary or the beneficiary's agent shall provide the trustee with the affi-  
25 davit described in ORS 86.750 (5). In the affidavit, the beneficiary or the beneficiary's agent  
26 shall describe how the beneficiary or the beneficiary's agent has complied with subsections  
27 (1) and (2) of this section.

28 “(b) The trustee shall record the affidavit described in paragraph (a) of this subsection  
29 and send a copy of the affidavit to the Director of the Department of Consumer and Business  
30 Services before conducting a trustee's sale. If the trustee fails to send a copy of the affidavit  
31 to the director, the failure does not affect title to the property subject to the loan.

32 “(4) Subsections (1) and (2) of this section do not apply to a beneficiary that determines  
33 in good faith, after considering the most current financial information the grantor provides,  
34 that the grantor is not eligible for a loan modification.

35 “SECTION 3a. (1) If a grantor returns the form identified in section 20 (6), chapter 19,  
36 Oregon Laws 2008, to the lender by the date specified on the form, the beneficiary or an  
37 agent of the beneficiary shall review the information the grantor provided in the form and,  
38 in good faith, shall process the grantor's request. The beneficiary or the beneficiary's agent  
39 within 30 days after receiving the form shall notify the grantor whether the beneficiary ap-  
40 proves or denies the request or requires additional information. A trustee's sale for the  
41 property subject to the loan may not occur until after the beneficiary or the beneficiary's  
42 agent timely responds to the grantor. During the 30-day period, the beneficiary or the bene-  
43 ficiary's agent may request the grantor to provide additional information required to deter-  
44 mine whether the loan can be modified.

45 “(2)(a) Except as provided in paragraph (b) of this subsection, if the grantor timely re-

1 **quests a meeting with the beneficiary, the beneficiary or the beneficiary’s agent shall meet**  
2 **with the grantor in person or shall speak to the grantor by telephone before the beneficiary**  
3 **or the beneficiary’s agent responds to the grantor’s request to modify the loan. If the**  
4 **grantor requests the meeting, the beneficiary or the beneficiary’s agent shall take reasonable**  
5 **steps to schedule the meeting by contacting the grantor at the grantor’s last known address**  
6 **or telephone number or at the grantor’s electronic mail address, if the grantor indicates on**  
7 **the loan modification form that the beneficiary or the beneficiary’s agent can contact the**  
8 **grantor at the electronic mail address.**

9 **“(b) A beneficiary or the beneficiary’s agent complies with the provisions of paragraph**  
10 **(a) of this subsection even if the beneficiary or beneficiary’s agent does not speak to or meet**  
11 **with the grantor if, within seven business days after the beneficiary or beneficiary’s agent**  
12 **attempts to contact the grantor, the grantor does not respond.**

13 **“(c) The beneficiary or the beneficiary’s agent that meets with the grantor shall have or**  
14 **be able to obtain authority to modify the loan.**

15 **“(3)(a) The beneficiary or the beneficiary’s agent shall provide the trustee with the affi-**  
16 **davit described in ORS 86.750 (5). In the affidavit, the beneficiary or the beneficiary’s agent**  
17 **shall describe how the beneficiary or the beneficiary’s agent has complied with subsections**  
18 **(1) and (2) of this section.**

19 **“(b) The trustee shall record the affidavit described in paragraph (a) of this subsection.**

20 **“(4) Subsections (1) and (2) of this section do not apply to a beneficiary that determines**  
21 **in good faith, after considering the most current financial information the grantor provides,**  
22 **that the grantor is not eligible for a loan modification.**

23 **“SECTION 4.** Section 20, chapter 19, Oregon Laws 2008, as amended by section 1 of this 2009  
24 Act, is amended to read:

25 **“Sec. 20.** (1) If a notice of default is recorded for property that is subject to a residential trust  
26 deed, the sender of a notice of sale under ORS 86.740 shall, on or before the date the notice of sale  
27 is served or mailed, give notice under this section to the grantor by both first class and certified  
28 mail with return receipt requested. Subject to any rules adopted under subsection (2) of this section,  
29 the notice must be in substantially the following form and printed in at least 14-point type:

30 “ \_\_\_\_\_

31

32 NOTICE:

33 YOU ARE IN DANGER OF LOSING  
34 YOUR PROPERTY IF YOU DO NOT  
35 TAKE ACTION IMMEDIATELY

36

37 This notice is about your mortgage loan on your property at \_\_\_\_\_ (address).

38

39 Your lender has decided to sell this property because the money due on your mortgage loan has not  
40 been paid on time or because you have failed to fulfill some other obligation to your lender. This  
41 is sometimes called “foreclosure.”

42

43 The amount you would have had to pay as of \_\_\_\_\_ (date) to bring your mortgage loan current  
44 was \$\_\_\_\_\_. The amount you must now pay to bring your loan current may have increased since  
45 that date.

1 By law, your lender has to provide you with details about the amount you owe, if you ask. You may  
2 call \_\_\_\_\_ (telephone number) to find out the exact amount you must pay to bring your  
3 mortgage loan current and to get other details about the amount you owe. You may also get these  
4 details by sending a request by certified mail to: \_\_\_\_\_.

5  
6 THIS IS WHEN AND WHERE  
7 YOUR PROPERTY WILL BE SOLD  
8 IF YOU DO NOT TAKE ACTION:  
9

10 Date and time: \_\_\_\_\_, 2\_\_\_\_\_ at \_\_\_\_\_

11  
12 Place: \_\_\_\_\_

13  
14 THIS IS WHAT YOU CAN DO  
15 TO STOP THE SALE:  
16

- 17 1. You can pay the amount past due or correct any other default, up to five days before the sale.
- 18 2. You can refinance or otherwise pay off the loan in full anytime before the sale.
- 19 3. You can [*request that your lender*] **call \_\_\_\_\_ (name) at \_\_\_\_\_ (telephone**  
20 **number) to find out if your lender is willing to** give you more time or change the terms of your  
21 loan.
- 22 4. You can sell your home, provided the sale price is enough to pay what you owe.

23  
24 There are government agencies and nonprofit organizations that can give you information about  
25 foreclosure and help you decide what to do. For the name and telephone number of an organization  
26 near you, please call the statewide telephone contact number at \_\_\_\_\_. You may also  
27 wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's  
28 Lawyer Referral Service at \_\_\_\_\_ or toll-free in Oregon at \_\_\_\_\_ or you may  
29 visit its website at: \_\_\_\_\_. Legal assistance may be available if you have a low income  
30 and meet federal poverty guidelines. For more information and a directory of legal aid programs,  
31 go to \_\_\_\_\_.

32  
33 [*Your lender may be willing to modify your loan to reduce the interest rate, reduce the monthly pay-*  
34 *ments or both. You can get information about possible loan modification programs by contacting your*  
35 *lender at \_\_\_\_\_. If you can't reach your lender, you may contact the trustee at the telephone*  
36 *number at the bottom of this notice. If you have already entered into a loan modification with your*  
37 *lender, it is possible that you will not be able to modify your loan again unless your circumstances have*  
38 *changed. Your lender is not obligated to modify your loan.*]

39  
40 [*You may request to meet with your lender to discuss options for modifying your loan. During dis-*  
41 *ussions with your lender, you may have the assistance of a lawyer, a housing counselor or another*  
42 *person of your choosing. To receive a referral to a housing counselor or other assistance available in*  
43 *your community, call this toll-free consumer mortgage foreclosure information*  
44 *number: \_\_\_\_\_. Many lenders participate in new federal loan modification programs. You*  
45 *can obtain more information about these programs at: \_\_\_\_\_.*]

1 [IF YOU WANT TO APPLY TO MODIFY YOUR LOAN, YOU MUST FILL OUT AND MAIL  
2 BACK THE ENCLOSED "MODIFICATION REQUEST FORM." YOUR LENDER MUST RE-  
3 CEIVE THE FORM BY \_\_\_\_\_, WHICH IS 30 DAYS AFTER THE DATE SHOWN BE-  
4 LOW.]

5  
6 WARNING: You may get offers from people who tell you they can help you keep your property. You  
7 should be careful about those offers. Make sure you understand any papers you are asked to sign.  
8 If you have any questions, talk to a lawyer or one of the organizations mentioned above before  
9 signing.

10  
11 DATED: \_\_\_\_\_, 2\_\_\_\_\_

12  
13 Trustee name: \_\_\_\_\_ (print)

14  
15 Trustee signature: \_\_\_\_\_

16  
17 Trustee telephone number: \_\_\_\_\_

18 " \_\_\_\_\_

19  
20 "(2) The Department of Consumer and Business Services may adopt rules prescribing the format,  
21 font size and other physical characteristics of the notice form set forth in subsection (1) of this  
22 section. The department shall adopt rules specifying the resource telephone contact numbers and  
23 website addresses the sender is to insert in completing the notice.

24 "(3) When filling blanks in the notice form set forth in subsection (1) of this section, the sender  
25 of the notice shall include, stated in plain language:

26 "(a) The amount of payment that was needed to bring the mortgage loan current as of the date  
27 stated in the notice; and

28 "(b) One or more telephone numbers consisting of:

29 "(A) A telephone number that will allow the grantor access during regular business hours to  
30 details regarding the grantor's loan delinquency and repayment information; and

31 "(B) A telephone number that will allow the grantor access during regular business hours to  
32 person-to-person consultation with an individual authorized by the beneficiary to discuss the  
33 grantor's payment and loan term negotiation and modification options.

34 "(4) Telephone numbers described in subsection (3) of this section must be toll-free numbers  
35 unless the beneficiary:

36 "(a) Made the loan with the beneficiary's own money;

37 "(b) Made the loan for the beneficiary's own investment; and

38 "(c) Is not in the business of making loans secured by an interest in real estate.

39 "(5) If the sender giving notice under subsection (1) of this section has actual knowledge that  
40 the grantor is not the occupant of the residential real property, the sender shall also give notice to  
41 the occupant of the property by both first class and certified mail with return receipt requested.

42 "[6) The notice required under subsection (1) of this section must be accompanied by a form to  
43 request a loan modification. The form must include the address to which and state the date by which  
44 the grantor must return the form. The date must be 30 days after the date on which the trustee signs  
45 the notice. The form may state that the grantor must disclose current information about the grantor's

1 *income and expenses, the grantor's address, phone number and electronic mail address and other facts*  
2 *that may affect the grantor's eligibility for a loan modification.]*

3 “**SECTION 5.** ORS 86.750, as amended by section 1, chapter \_\_\_\_\_, Oregon Laws 2009 (En-  
4 rolled Senate Bill 239), is amended to read:

5 “86.750. (1)(a) Except as provided in paragraph (b) of this subsection, the notice prescribed in  
6 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 sub-  
10 section on the first attempt, the person attempting service shall post a copy of the notice in a con-  
11 spicuous place on the property on the date of the first attempt. The person attempting service shall  
12 make a second attempt to effect service on a day that is at least two days after the first attempt.

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

17 “(C) If service cannot be effected on an occupant as provided in paragraph (a) of this subsection  
18 on the third attempt, the person attempting service shall send a copy of the notice, bearing the word  
19 ‘occupant’ as the addressee, to the property address by first class mail with postage prepaid.

20 “(c) Service on an occupant is deemed effected on the earlier of the date that notice is served  
21 as provided in paragraph (a) of this subsection or the first date on which notice is posted as de-  
22 scribed in paragraph (b)(A) of this subsection.

23 “(2) A copy of the notice of sale shall be published in a newspaper of general circulation in each  
24 of the counties in which the property is situated once a week for four successive weeks. The last  
25 publication shall be made more than 20 days prior to the date the trustee conducts the sale.

26 “(3) On or before the date the trustee conducts the sale, the trustee shall file for recording in  
27 the official record of the county or counties in which the property described in the deed is situated  
28 the following affidavits with respect to the notice of sale:

29 “(a) An affidavit of mailing, if any;

30 “(b) An affidavit of service, if any;

31 “(c) An affidavit of service attempts and posting, if any; and

32 “(d) An affidavit of publication.

33 “(4) On or before the date the trustee conducts the sale, the trustee shall file for recording in  
34 the official record of the county or counties in which the property described in the deed is situated  
35 an affidavit of mailing with respect to the notice to the grantor required under section 20, chapter  
36 19, Oregon Laws 2008.

37 “**(5) On or before the date the trustee conducts the sale, the trustee shall file for re-**  
38 **recording in the official record of the county or counties in which the property is located an**  
39 **affidavit from the beneficiary or the beneficiary’s agent that states how the beneficiary or**  
40 **the beneficiary’s agent has complied with the provisions of section 3 (1) and (2) of this 2009**  
41 **Act.**

42 “**SECTION 5a.** ORS 86.750, as amended by section 1, chapter \_\_\_\_\_, Oregon Laws 2009 (En-  
43 rolled Senate Bill 239), and section 5 of this 2009 Act, is amended to read:

44 “86.750. (1)(a) Except as provided in paragraph (b) of this subsection, the notice prescribed in  
45 ORS 86.745 shall be served upon an occupant of the property described in the trust deed in the



1 manner in which a summons is served pursuant to ORCP 7 D(2) and 7 D(3) at least 120 days before  
2 the day the trustee conducts the sale.

3 “(b)(A) If service cannot be effected on an occupant as provided in paragraph (a) of this sub-  
4 section on the first attempt, the person attempting service shall post a copy of the notice in a con-  
5 spicuous place on the property on the date of the first attempt. The person attempting service shall  
6 make a second attempt to effect service on a day that is at least two days after the first attempt.

7 “(B) If service cannot be effected on an occupant as provided in paragraph (a) of this subsection  
8 on the second attempt, the person attempting service shall post a copy of the notice in a conspicu-  
9 ous place on the property on the date of the second attempt. The person attempting service shall  
10 make a third attempt to effect service on a day that is at least two days after the second attempt.

11 “(C) If service cannot be effected on an occupant as provided in paragraph (a) of this subsection  
12 on the third attempt, the person attempting service shall send a copy of the notice, bearing the word  
13 ‘occupant’ as the addressee, to the property address by first class mail with postage prepaid.

14 “(c) Service on an occupant is deemed effected on the earlier of the date that notice is served  
15 as provided in paragraph (a) of this subsection or the first date on which notice is posted as de-  
16 scribed in paragraph (b)(A) of this subsection.

17 “(2) A copy of the notice of sale shall be published in a newspaper of general circulation in each  
18 of the counties in which the property is situated once a week for four successive weeks. The last  
19 publication shall be made more than 20 days prior to the date the trustee conducts the sale.

20 “(3) On or before the date the trustee conducts the sale, the trustee shall file for recording in  
21 the official record of the county or counties in which the property described in the deed is situated  
22 the following affidavits with respect to the notice of sale:

23 “(a) An affidavit of mailing, if any;

24 “(b) An affidavit of service, if any;

25 “(c) An affidavit of service attempts and posting, if any; and

26 “(d) An affidavit of publication.

27 “(4) On or before the date the trustee conducts the sale, the trustee shall file for recording in  
28 the official record of the county or counties in which the property described in the deed is situated  
29 an affidavit of mailing with respect to the notice to the grantor required under section 20, chapter  
30 19, Oregon Laws 2008.

31 “(5) On or before the date the trustee conducts the sale, the trustee shall file for recording in  
32 the official record of the county or counties in which the property is located an affidavit from the  
33 beneficiary or the beneficiary’s agent that states how the beneficiary or the beneficiary’s agent has  
34 complied with the provisions of section [3] **3a** (1) and (2) of this 2009 Act.

35 “**SECTION 6.** ORS 86.750, as amended by section 1, chapter \_\_\_\_\_, Oregon Laws 2009 (En-  
36 rolled Senate Bill 239), and sections 5 and 5a of this 2009 Act, is amended to read:

37 “86.750. (1)(a) Except as provided in paragraph (b) of this subsection, the notice prescribed in  
38 ORS 86.745 shall be served upon an occupant of the property described in the trust deed in the  
39 manner in which a summons is served pursuant to ORCP 7 D(2) and 7 D(3) at least 120 days before  
40 the day the trustee conducts the sale.

41 “(b)(A) If service cannot be effected on an occupant as provided in paragraph (a) of this sub-  
42 section on the first attempt, the person attempting service shall post a copy of the notice in a con-  
43 spicuous place on the property on the date of the first attempt. The person attempting service shall  
44 make a second attempt to effect service on a day that is at least two days after the first attempt.

45 “(B) If service cannot be effected on an occupant as provided in paragraph (a) of this subsection

1 on the second attempt, the person attempting service shall post a copy of the notice in a conspicu-  
2 ous place on the property on the date of the second attempt. The person attempting service shall  
3 make a third attempt to effect service on a day that is at least two days after the second attempt.

4 “(C) If service cannot be effected on an occupant as provided in paragraph (a) of this subsection  
5 on the third attempt, the person attempting service shall send a copy of the notice, bearing the word  
6 ‘occupant’ as the addressee, to the property address by first class mail with postage prepaid.

7 “(c) Service on an occupant is deemed effected on the earlier of the date that notice is served  
8 as provided in paragraph (a) of this subsection or the first date on which notice is posted as de-  
9 scribed in paragraph (b)(A) of this subsection.

10 “(2) A copy of the notice of sale shall be published in a newspaper of general circulation in each  
11 of the counties in which the property is situated once a week for four successive weeks. The last  
12 publication shall be made more than 20 days prior to the date the trustee conducts the sale.

13 “(3) On or before the date the trustee conducts the sale, the trustee shall file for recording in  
14 the official record of the county or counties in which the property described in the deed is situated  
15 the following affidavits with respect to the notice of sale:

16 “(a) An affidavit of mailing, if any;

17 “(b) An affidavit of service, if any;

18 “(c) An affidavit of service attempts and posting, if any; and

19 “(d) An affidavit of publication.

20 “(4) On or before the date the trustee conducts the sale, the trustee shall file for recording in  
21 the official record of the county or counties in which the property described in the deed is situated  
22 an affidavit of mailing with respect to the notice to the grantor required under section 20, chapter  
23 19, Oregon Laws 2008.

24 “[5] *On or before the date the trustee conducts the sale, the trustee shall file for recording in the*  
25 *official record of the county or counties in which the property is located an affidavit from the benefi-*  
26 *ciary or the beneficiary’s agent that states how the beneficiary or the beneficiary’s agent has complied*  
27 *with the provisions of section 3a (1) and (2) of this 2009 Act.]*

28 “**SECTION 7. (1) Notwithstanding the purposes set forth in ORS 180.095, and except as**  
29 **provided in subsection (2) of this section, the Department of Justice shall use the proceeds**  
30 **of the State of Oregon’s settlement with Countrywide Financial Corporation that are depos-**  
31 **ited into the Consumer Protection and Education Revolving Account to make grants, in**  
32 **consultation with the Housing and Community Services Department, to nonprofit entities to**  
33 **provide foreclosure relief services.**

34 “**(2) The Department of Justice need not use the proceeds identified in subsection (1) of**  
35 **this section if sufficient funding for the purposes identified in subsection (1) of this section**  
36 **is available from another source.**

37 “**SECTION 8. (1) Sections 3 and 3a of this 2009 Act and the amendments to ORS 86.750**  
38 **and section 20, chapter 19, Oregon Laws 2008, by sections 1, 5 and 5a of this 2009 Act apply**  
39 **to a notice of sale sent on or after the 60th day following the effective date of this 2009 Act.**

40 “**(2) Sections 3 and 3a of this 2009 Act and the amendments to ORS 86.750 and section 20,**  
41 **chapter 19, Oregon Laws 2008, by sections 1, 5 and 5a of this 2009 Act do not apply to prop-**  
42 **erty secured by a trust deed that a government agency holds for a loan the government**  
43 **agency funded through a government program.**

44 “**SECTION 9. (1) Section 3a of this 2009 Act and the amendments to ORS 86.750 by section**  
45 **5a of this 2009 Act become operative one year after the effective date of this 2009 Act.**

1       “(2) The amendments to ORS 86.750 and section 20, chapter 19, Oregon Laws 2008, by  
2 sections 4 and 6 of this 2009 Act become operative on January 2, 2012.

3       “SECTION 10. (1) Section 3 of this 2009 Act is repealed one year after the effective date  
4 of this 2009 Act.

5       “(2) Section 3a of this 2009 Act is repealed on January 2, 2012.

6       “SECTION 11. This 2009 Act being necessary for the immediate preservation of the public  
7 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
8 on its passage.”  
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