

House Bill 3610

Sponsored by Representative GARRARD (Pre-session filed.)

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**.

Specifies date by which trustee must provide affidavit of compliance with requirement to meet with grantor and review grantor's request to modify mortgage loan.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to affidavits for loan modification; amending ORS 86.750; and declaring an emergency.

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 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 the
27 official record of the county or counties in which the property described in the deed is situated the
28 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

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 (d) An affidavit of publication.

2 (4) On or before the date the trustee conducts the sale, the trustee shall file for recording in the
3 official record of the county or counties in which the property described in the deed is situated an
4 affidavit of mailing with respect to the notice to the grantor required under ORS 86.737.

5 (5) [*On or*] **Not later than five days** before the date the trustee conducts the sale, the trustee
6 shall file for recording in the official record of the county or counties in which the property is lo-
7 cated an affidavit from the beneficiary or the beneficiary's agent that states how the beneficiary or
8 the beneficiary's agent has complied with the provisions of section 3 (1) and (2), chapter 864, Oregon
9 Laws 2009.

10 **SECTION 2. This 2010 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
12 **on its passage.**

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