

**A-Engrossed  
House Bill 2916**

Ordered by the House April 20  
Including House Amendments dated April 20

Sponsored by Representative WINGARD (at the request of John Bacon) (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.

*[Directs lender that requires or consents to short sale of residential property to offer option to borrower to pay residual debt in amount or at discount at which lender sells or assigns residual debt to third party for collection. Specifies conditions for offer and acceptance of offer. Requires amount or discount in offer to be comparable to amount or discount common in market for similar debt.]*

*[Provides that violation of provisions of Act is unlawful practice enforceable with private action.]*

**Prohibits lender or assignee of lender from bringing action or otherwise seeking payment for residual debt following short sale if lender reports to Internal Revenue Service that, for specified reasons, lender has canceled all or portion of borrower's debt under real estate loan agreement and if lender provides to borrower written evidence of report.**

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1  
2 Relating to residual debts following short sales of residential property; and declaring an emergency.

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

4 **SECTION 1. (1) As used in this section:**

5 (a) **"Borrower"** means an individual who, directly or indirectly and individually or to-  
6 gether with another person, is obligated on a real estate loan agreement, including but not  
7 limited to a mortgagor or a grantor, as defined in ORS 86.705.

8 (b) **"Lender"** means a person that makes, extends or holds a real estate loan agreement,  
9 including but not limited to a mortgagee or a beneficiary, as defined in ORS 86.705.

10 (c) **"Real estate loan agreement"** means an arrangement between a lender and a bor-  
11 rower, including but not limited to a mortgage or a trust deed, by means of which the lender  
12 agrees to extend a loan and the borrower agrees to secure the loan in whole or in part with  
13 residential property, or an interest in residential property, that is located in this state.

14 (d) **"Residential property"** means real property upon which is situated four or fewer im-  
15 provements designed for residential use, one of which a borrower occupies as the borrower's  
16 residence.

17 (e) **"Residual debt"** means an amount due on a loan, evidence of which exists in a real  
18 estate loan agreement, note, bond, contract or similar written agreement, that a borrower  
19 is unable to pay out of the proceeds from a sale of the residential property that secures the  
20 loan.

21 (f) **"Short sale"** means a sale of residential property that is subject to foreclosure under  
22 ORS 86.705 to 86.795 or ORS chapter 88 for an amount that is less than the remaining amount  
23 due on the loan that the residential property secures.

**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       **(2) If a lender reports to the Internal Revenue Service that as a consequence of or in**  
2 **conjunction with a short sale of residential property the lender has canceled all or a portion**  
3 **of a borrower's debt under a real estate loan agreement and the lender provides to the bor-**  
4 **rower written evidence of the lender's report to the Internal Revenue Service, the lender or**  
5 **an assignee of the lender may not bring an action or otherwise seek payment for the residual**  
6 **debt following the short sale.**

7       **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**  
8 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
9 **on its passage.**

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