

## SENATE AMENDMENTS TO SENATE BILL 519

By COMMITTEE ON JUDICIARY

April 18

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “86.705,”.
- 2 In line 3, delete “88.060” and insert “130.005”.
- 3 After line 4, insert:
- 4 “**SECTION 1.** ORS 86.705 is amended to read:
- 5 “86.705. As used in ORS 86.705 to 86.795[, *unless the context requires otherwise*]:
- 6 “(1) ‘**Affordable housing covenant**’ has the meaning given that term in ORS 456.270.
- 7 “[1] (2) ‘Beneficiary’ means [*the*] a person named or otherwise designated in a trust deed as the
- 8 person for whose benefit a trust deed is given, or the person’s successor in interest, and who [*shall*
- 9 *not be*] **is not** the trustee unless the beneficiary is qualified to be a trustee under ORS 86.790 (1)(d).
- 10 “(3) ‘**Eligible covenant holder**’ has the meaning given that term in ORS 456.270.
- 11 “[2] (4) ‘Grantor’ means the person [*conveying*] **that conveys** an interest in real property by
- 12 a trust deed as security for the performance of an obligation.
- 13 “[3] (5) ‘Residential trust deed’ means a trust deed on property upon which are situated four
- 14 or fewer residential units, [*and*] one of **which** [*the residential units is occupied as the principal resi-*
- 15 *dence of*] the grantor, the grantor’s spouse or the grantor’s minor or dependent child **occupies as**
- 16 **a principal residence** at the time a trust deed foreclosure is commenced.
- 17 “[4] (6) ‘Residential unit’ means an improvement designed for residential use.
- 18 “[5] (7) ‘Trust deed’ means a deed executed in conformity with ORS 86.705 to 86.795[, *and*
- 19 *conveying*] **that conveys** an interest in real property to a trustee in trust to secure the performance
- 20 of an obligation [*owed by*] the grantor or other person named in the deed **owes** to a beneficiary.
- 21 “[6] (8) ‘Trustee’ means a person, other than the beneficiary, to whom [*an interest in real*
- 22 *property is conveyed by*] a trust deed **conveys an interest in real property**, or [*such*] **the** person’s
- 23 successor in interest[. *The term includes a person who is*], **or** an employee of the beneficiary, if the
- 24 [*person*] **employee** is qualified to be a trustee under ORS 86.790.”.
- 25 In line 5, delete “1.” and insert “2.”.
- 26 In line 20, after the first comma delete the rest of the line and line 21.
- 27 In line 22, delete “to the interest that the beneficiary in the trust deed holds,”.
- 28 In line 23, delete “, as defined in ORS 456.270, or the public body”.
- 29 On page 3, line 43, delete “2” and insert “3”.
- 30 On page 4, line 42, delete “3” and insert “4”.
- 31 On page 5, line 36, delete “4” and insert “5”.
- 32 On page 6, delete lines 1 through 9 and insert:
- 33 “(b) If the property subject to the trustee’s sale is also subject to an affordable housing
- 34 covenant, the trustee shall sell the property to an eligible covenant holder for a bid of the lesser
- 35 of:

1 “(A) The total sum of obligations that is owed and due to a person and is secured by a trust  
2 deed, mortgage or lien on the property that is superior to the eligible covenant holder’s interest;  
3 or

4 “(B) The highest bid received for the property other than a bid from the eligible covenant  
5 holder.”.

6 On page 8, delete lines 40 through 45 and insert:

7 “**SECTION 6.** ORS 130.005 is amended to read:

8 “130.005. (1) Except as provided in subsection (2) of this section, this chapter applies to express  
9 trusts, whether charitable or noncharitable, and to trusts created pursuant to a statute or a judg-  
10 ment that requires that the trust be administered in the manner of an express trust.

11 “(2) This chapter does not apply to:

12 “(a) A trust that is part of an employee benefit arrangement or an individual retirement account.

13 “(b) A trust account established under a qualified tuition savings program pursuant to ORS  
14 348.841 to 348.873.

15 “(c) Trust accounts maintained on behalf of clients or customers by licensed service profes-  
16 sionals, including trust accounts maintained by attorneys pursuant to rules of professional conduct  
17 adopted under ORS 9.490 and by real estate brokers pursuant to ORS 696.241.

18 “(d) An endowment care fund established by a cemetery authority pursuant to ORS 97.810.

19 “(e) Funds maintained by a public [*bodies*] **body**, as defined [*by*] **in** ORS 174.109, or other gov-  
20 ernmental entities.

21 “(f) Trust funds held for a single business transaction or an escrow arrangement.

22 “(g) Trusts created by a depository agreement with a financial institution.

23 “(h) Trusts created by an account agreement with a regulated financial services entity.

24 “(i) An account maintained under the Oregon Uniform Transfers to Minors Act as set forth in  
25 ORS 126.805 to 126.886.

26 “(j) A fund maintained pursuant to court order in conjunction with a bankruptcy proceeding or  
27 business liquidation.

28 “(k) A business trust as described in ORS 128.560.

29 “(L) A voting trust as described in ORS 60.254.

30 “(m) Funds maintained to manage proceeds from class actions.

31 “(n) A trust deed as defined in ORS 86.705 [(5)] or any other trust created solely to secure the  
32 performance of an obligation.

33 “(o) A trust established on behalf of a resident of a residential facility under ORS 443.880.

34 “(p) A trust managed by a nonprofit association for persons with disabilities under 42 U.S.C.  
35 1396p(d)(4)(C), as in effect on January 1, 2006, and under the rules of the Department of Human  
36 Services.

37 “(q) A resulting or constructive trust.

38 “(r) A trust fund established for a purchaser who enters into a prearrangement sales contract,  
39 as defined in ORS 97.923, or a preconstruction sales contract, as defined in ORS 97.923.”.

40 On page 9, delete lines 1 through 21.

41 In line 22, delete “6” and insert “7”.

42 Delete lines 40 and 41 and insert “sale under terms set forth in ORS 86.755.”.

43 On page 10, line 39, delete “7” and insert “8” and after “ORS” insert “86.705,” and delete “4”  
44 and insert “5”.

45 Delete lines 42 and 43.

- 1 In line 44, delete “(3)” and insert “(2)” and delete “6” and insert “7”.
- 2 On page 11, line 1, delete “8” and insert “9”.
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