

Senate Bill 520

Sponsored by Senator DINGFELDER; Senator BONAMICI (Presession 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**.

Authorizes imposition of affordable housing covenants contained in recorded master form instrument to be incorporated by reference in short form instrument imposing affordable housing covenants. Defines terms.

A BILL FOR AN ACT

1
2 Relating to recordation of master form instruments; creating new provisions; and amending ORS
3 93.780, 93.790, 93.800 and 93.802.

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

5 **SECTION 1. ORS 93.802 and section 2 of this 2011 Act are added to and made a part of**
6 **ORS 93.780 to 93.800.**

7 **SECTION 2. As used in ORS 93.780 to 93.800:**

8 (1) **“Master form instrument” means an instrument containing a form or forms of**
9 **covenants, conditions, obligations, powers and other clauses of a mortgage, a trust deed or**
10 **an instrument imposing affordable housing covenants.**

11 (2) **“Short form instrument” means a short form mortgage, a short form trust deed or**
12 **a short form instrument imposing affordable housing covenants that, when recorded, incor-**
13 **porates all or any of the covenants, conditions, obligations, powers and other clauses of a**
14 **recorded master form instrument by reference into the transaction reflected in the short**
15 **form instrument.**

16 **SECTION 3. ORS 93.780 is amended to read:**

17 93.780. [*An instrument containing a form or forms of covenants, conditions, obligations, powers and*
18 *other clauses of a mortgage or a trust deed may be recorded in any county. The county clerk,*] Upon
19 request of any person and on tender of the required fee, **the county clerk** shall record [*the instru-*
20 *ment. The instrument shall be entitled “Master Form” and recorded*] **a master form instrument** in
21 the name of the [*entity or*] person causing it to be recorded.

22 **SECTION 4. ORS 93.790 is amended to read:**

23 93.790. (1) After [*the*] **a** master form instrument is recorded pursuant to ORS 93.780, [*any pro-*
24 *visions of such instrument may be incorporated by reference in any mortgage or trust deed of real es-*
25 *tate situated within this state, if the reference in the mortgage or trust deed states that*] **subject to**
26 **subsection (3) of this section, the person that caused the master form instrument to be re-**
27 **corded may cause all or any of the provisions of the master form instrument to apply to real**
28 **estate situated within this state by incorporating all or any of the provisions of the master**
29 **form instrument by reference in a short form instrument, if the reference in the short form**
30 **instrument states that:**

31 (a) The master form instrument was recorded in the county in which the [*mortgage or trust*

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 *deed*] **short form instrument** is offered for record;

2 (b) The date when and the book and page or pages [*where*] **on which** the master form instrument
3 was recorded; and

4 (c) A copy of the master form instrument was furnished to the party executing the [*mortgage*
5 *or trust deed at or before the time of its execution*] **short form instrument on or before the time**
6 **the party executes the short form instrument.**

7 (2) The recording of [*any mortgage or trust deed which has incorporated*] **a short form instru-**
8 **ment that incorporates** by reference any provision of a master form instrument recorded as pro-
9 vided in ORS 93.780 has like effect as if the incorporated provisions were set forth fully in the
10 [*mortgage or trust deed.*] **short form instrument.**

11 [(3) *In the event any instrument recorded as provided in subsections (1) and (2) of this section*
12 *should deviate in any respect from a recorded master form, that portion that deviates from the master*
13 *form shall not be deemed notice to third parties.*]

14 **(3) If a short form instrument recorded as provided in this section deviates in any re-**
15 **spect from a recorded master form instrument, the portion of the short term instrument**
16 **that deviates from the master form instrument is deemed not to be notice to third parties.**

17 **SECTION 5.** ORS 93.800 is amended to read:

18 93.800. (1) [*No*] **A county clerk [shall] may not** record matter accompanying a [*mortgage or trust*
19 *deed*] **short form instrument** presented for recording if [*such*] **the** matter:

20 (a) Purports to be copied or reproduced from a master form instrument recorded and identified
21 as required by ORS 93.780;

22 (b) Is preceded by the words “do not record” or “not to be recorded”; and

23 (c) Is separated from the [*mortgage or trust deed*] **short form instrument** so that it will not
24 appear on a photographic reproduction of any page containing a part of the [*mortgage or trust*
25 *deed*] **short form instrument.**

26 (2) Notwithstanding any law to the contrary, [*no recorder is liable for failing to record matter the*
27 *recorder is prohibited from recording by subsection (1) of this section*] **a county clerk is not liable**
28 **for refusing to record matter the county clerk is prohibited by this section from recording.**

29 **SECTION 6.** ORS 93.802 is amended to read:

30 93.802. (1) After a master form instrument is recorded in a county under ORS 93.780 [*and*
31 *93.790*] **to 93.800**, an instrument entitled “Short Form Mortgage,” [*or*] “Short Form Trust Deed” **or**
32 **“Short Form Instrument Imposing Affordable Housing Covenants”** may be recorded.

33 (2) The short form instrument [*shall*] **must** contain the title of the **short form** instrument, the
34 names of all parties involved in the encumbrance of the real property described in the **short form**
35 instrument, the legal description of the property that is encumbered by the **short form** instrument,
36 the amount of the encumbrance, the date on which the **short form** instrument was executed and
37 any other information required by law for recording the **short form** instrument.

38 (3) Any provision of the master form instrument recorded under ORS 93.780 may be incorporated
39 in a short form instrument by reference to:

40 (a) The date when and the book and page or fee number [*where*] **on which** the master form in-
41 strument was recorded; and

42 (b) Any specific provision of the master form instrument that applies to the short form instru-
43 ment.

44 (4) A short form instrument recorded under this section [*shall*] **must** describe provisions in the
45 short form instrument that deviate in any respect from the **provisions of the** recorded master form

1 instrument.

2 (5) The person presenting a short form instrument for recording shall cause a complete copy of
3 the master form instrument to which reference is made in the short form instrument to be provided
4 or disclosed to each party involved in the encumbrance of the real property described in the short
5 form instrument.

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