

# Enrolled Senate Bill 1535

Sponsored by Senator DINGFELDER; Senators MONNES ANDERSON, STEINER HAYWARD  
(Pre-session filed.)

CHAPTER .....

AN ACT

Relating to use of master form instruments; creating new provisions; amending ORS 93.780, 93.790,  
93.800 and 93.802; and declaring an emergency.

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

**SECTION 1.** Section 2 of this 2012 Act and ORS 93.802 are added to and made a part of ORS 93.780 to 93.800.

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

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

(2) “Short form instrument” means a short form mortgage, a short form trust deed or any instrument that documents a real estate transaction that incorporates by reference and applies all or any affordable housing covenants created in a recorded master form instrument into the transaction.

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

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

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

93.790. (1) After *[the]* a master form instrument is recorded pursuant to ORS 93.780, *[any provisions of such instrument may be incorporated by reference in any mortgage or trust deed of real estate situated within this state, if the reference in the mortgage or trust deed states that]* **subject to subsection (3) of this section, the person that caused the master form instrument to be recorded may cause all or any of the provisions of the master form instrument to apply to real estate situated within the county in which the master form instrument was recorded by incorporating all or any of the provisions of the master form instrument by reference in a short form instrument, if the reference in the short form instrument states:**

(a) **That** the master form instrument was recorded in the county in which the *[mortgage or trust deed]* **short form instrument** is offered for record;

(b) The date when and the book and page or pages where the master form instrument was recorded; and

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

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

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

**(3) If a short form instrument recorded as provided in this section deviates in any respect from a recorded master form instrument and fails to describe the deviation as required by ORS 93.802 (4), the portion of the short term instrument that deviates from the master form instrument is deemed not to be notice to third parties.**

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

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

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

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

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

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

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

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

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

(3) Any provision of the master form instrument recorded under ORS 93.780 **to 93.800** may be incorporated in *[a]* **the** short form instrument by reference to:

(a) The date when and the book and page or fee number where the master form instrument was recorded; and

(b) Any specific provision of the master form instrument that applies to the short form instrument.

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

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

**SECTION 7. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.**

**Passed by Senate February 10, 2012**

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House February 17, 2012**

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

**Received by Governor:**

.....M,....., 2012

**Approved:**

.....M,....., 2012

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John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2012

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Kate Brown, Secretary of State