

**SENATE AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2929  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS  
PROTECTION

June 7

1 On page 2 of the printed A-engrossed bill, line 36, after “deed” insert “only”.

2 Delete lines 37 and 38 and insert:

3 “(A) The trustee asserts that during the trustee’s sale a bona fide error occurred in:

4 “(i) Setting, advertising or otherwise specifying the opening bid amount for the property that is  
5 the subject of the trustee’s sale;

6 “(ii) Providing a correct legal description of the property that is the subject of the trustee’s sale;

7 or

8 “(iii) Complying with a requirement or procedure that is imposed by law;”.

9 On page 3, after line 10, insert:

10 “(d) If the trustee rescinded a trustee’s sale and voided a trustee’s deed in accordance with this  
11 subsection, the trustee, not later than 21 days after the date of the trustee’s sale that resulted in  
12 the rescission, shall present for recording an affidavit that states that the trustee provided the no-  
13 tice of rescission described in paragraph (b) of this subsection. The affidavit must identify the trust  
14 deed that was subject to the rescinded trustee’s sale and the voided trustee’s deed.”.

15 In line 11, delete “(d)” and insert “(e)”.

16 On page 9, line 20, after “deed” insert “only”.

17 Delete lines 21 and 22 and insert:

18 “(A) The trustee asserts that during the trustee’s sale a bona fide error occurred in:

19 “(i) Setting, advertising or otherwise specifying the opening bid amount for the property that is  
20 the subject of the trustee’s sale;

21 “(ii) Providing a correct legal description of the property that is the subject of the trustee’s sale;

22 or

23 “(iii) Complying with a requirement or procedure that is imposed by law;”.

24 After line 39, insert:

25 “(d) If the trustee rescinded a trustee’s sale and voided a trustee’s deed in accordance with this  
26 subsection, the trustee, not later than 21 days after the date of the trustee’s sale that resulted in  
27 the rescission, shall present for recording an affidavit that states that the trustee provided the no-  
28 tice of rescission described in paragraph (b) of this subsection. The affidavit must identify the trust  
29 deed that was subject to the rescinded trustee’s sale and the voided trustee’s deed.”.

30 In line 40, delete “(d)” and insert “(e)”.

31 On page 15, delete lines 15 through 20 and insert:

32 “(c) Shall obtain from the Secretary of State a certificate of authority to transact business in  
33 this state as a foreign business entity, if the trustee is a person described in paragraph (b)(B) or (C)  
34 of this subsection, unless the trustee has registered with or obtained a certificate of authority from

1 the Director of the Department of Consumer and Business Services.”.

2 On page 16, after line 20, insert:

3 **“SECTION 6. If House Bill 2569 becomes law, section 3 of this 2013 Act (amending ORS**  
4 **86.790) is repealed and ORS 86.790, as amended by section 2, chapter 125, Oregon Laws 2013**  
5 **(Enrolled House Bill 2569), is amended to read:**

6 “86.790. (1) The trustee of a trust deed under ORS 86.705 to 86.795:

7 “(a) Is not required to comply with the provisions of ORS chapters 707 and 709 *[and]*.

8 “(b) Must be:

9 “[*a*] (A) An attorney who is an active member of the Oregon State Bar or a law practice that  
10 includes an attorney who is an active member of the Oregon State Bar;

11 “[*b*] (B) A financial institution or trust company, as defined in ORS 706.008, that is authorized  
12 to do business under the laws of Oregon or the United States;

13 “[*c*] (C) A title insurance company **or a subsidiary, affiliate, insurance producer or branch**  
14 **of the title insurance company that is** authorized to insure title to real property in this state  
15 *[and the subsidiaries, affiliates, insurance producers or branches of the title insurance company]*;

16 “[*d*] (D) The United States or any agency of the United States; or

17 “[*e*] (E) An escrow agent that is licensed under ORS 696.505 to 696.590.

18 **“(c) Shall obtain from the Secretary of State a certificate of authority to transact busi-**  
19 **ness in this state as a foreign business entity, if the trustee is a person described in para-**  
20 **graph (b)(B) or (C) of this subsection, unless the trustee has registered with or obtained a**  
21 **certificate of authority from the Director of the Department of Consumer and Business**  
22 **Services.**

23 “(2) A law practice that, or an attorney who, is a trustee under subsection [*1*](*a*) (1)(b)(A) of  
24 this section may represent the beneficiary in addition to performing the duties of trustee.

25 “(3) At any time after a trust deed is executed, the beneficiary may appoint in writing another  
26 qualified trustee. If the appointment of the successor trustee is recorded in the mortgage records  
27 of the county or counties in which the trust deed is recorded, the successor trustee *[is vested with*  
28 *all]* **has** the powers of the original trustee.

29 “(4) A trustee or successor trustee is a necessary and proper party to any proceeding to deter-  
30 mine the validity of a trust deed, or to enjoin any private or judicial proceeding to foreclose a trust  
31 deed, but a trustee or successor trustee is not a necessary or proper party to any proceeding to  
32 determine title to the property subject to the trust deed, or to any proceeding to impose, enforce  
33 or foreclose any other lien on the subject property.

34 “(5) *[Nothing in]* **The provisions of ORS 86.705 to 86.795** *[imposes]* **do not impose** a duty on the  
35 trustee or successor trustee to notify any person of any proceeding with respect to the person, ex-  
36 cept a proceeding that the trustee or successor trustee initiates.

37 “(6) A trustee or the attorney for the trustee or any agent **that** the trustee or the attorney  
38 designates may announce and accept a bid from the beneficiary whether or not the beneficiary is  
39 present at the sale.

40 “(7) The trustee or successor trustee *[has no]* **does not have a** fiduciary duty or fiduciary obli-  
41 gation to the grantor or other persons that have an interest in the property subject to the trust  
42 deed. The trustee or successor trustee *[may not be]* **is not** relieved of the duty to reconvey the  
43 property that is subject to the trust deed to the grantor *[upon the beneficiary’s request for]* **when**  
44 **the beneficiary requests a** reconveyance.

45 “(8) If a law practice is the trustee under subsection [*1*](*a*) (1)(b)(A) of this section, an attorney

1 who is an active member of the Oregon State Bar and is a shareholder, partner, member or employee  
2 of the law practice shall sign on the trustee's behalf any document that is permitted or required to  
3 be signed under ORS 86.705 to 86.795. The attorney who signs the document shall make evident in  
4 the document the attorney's name and Oregon State Bar number and shall state in the document  
5 that the trustee has authorized the attorney to sign the document on the trustee's behalf.

6 “(9) If an attorney is the trustee under subsection [(1)(a)] **(1)(b)(A)** of this section, another at-  
7 torney who is an active member of the Oregon State Bar and is a shareholder, partner, member or  
8 employee of the law practice in which the attorney practices law may sign on the trustee's behalf  
9 any document that is permitted or required to be signed under ORS 86.705 to 86.795. The attorney  
10 who signs the document shall make evident in the document the attorney's name and Oregon State  
11 Bar number and shall state in the document that the trustee has authorized the attorney to sign the  
12 document on the trustee's behalf.

13 “**SECTION 7.** If House Bill 2569 becomes law, section 5 of this 2013 Act is amended to read:

14 “**Sec. 5.** The amendments to ORS 86.705, 86.755 and 86.790 by sections 1 [to 4], **2, 4 and 6** of this  
15 2013 Act apply to trustee's sales that occur on or after the effective date of this 2013 Act.”.