

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
A-ENGROSSED HOUSE BILL 2929**

1 On page 16 of the printed A-engrossed bill, after line 20, insert:

2 **“SECTION 6. If House Bill 2569 becomes law, section 3 of this 2013**
3 **Act (amending ORS 86.790) is repealed and ORS 86.790, as amended by**
4 **section 2, chapter 125, Oregon Laws 2013 (Enrolled House Bill 2569), is**
5 **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
8 and 709 [*and*].

9 **“(b)** Must be:

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

13 “[*b*] **(B)** A financial institution or trust company, as defined in ORS
14 706.008, that is authorized to do business under the laws of Oregon or the
15 United States;

16 “[*c*] **(C)** A title insurance company **or a subsidiary, affiliate, insur-**
17 **ance producer or branch of the title insurance company that is au-**
18 **thorized to insure title to real property in this state [*and the subsidiaries,***
19 ***affiliates, insurance producers or branches of the title insurance company*];**

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

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

22 **“(c) Shall continuously maintain a registered agent and a registered**

1 **office in this state and file a statement that identifies the person’s**
2 **registered agent and lists the address of the person’s registered office**
3 **with the Secretary of State, if the trustee is a person described in**
4 **paragraph (b)(B) of this subsection, or with the Director of the De-**
5 **partment of Consumer and Business Services under ORS 731.434, if the**
6 **trustee is a person described in paragraph (b)(C) of this subsection.**

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

10 “(3) At any time after a trust deed is executed, the beneficiary may ap-
11 point in writing another qualified trustee. If the appointment of the succes-
12 sor trustee is recorded in the mortgage records of the county or counties in
13 which the trust deed is recorded, the successor trustee [*is vested with all*]
14 **has** the powers of the original trustee.

15 “(4) A trustee or successor trustee is a necessary and proper party to any
16 proceeding to determine the validity of a trust deed, or to enjoin any private
17 or judicial proceeding to foreclose a trust deed, but a trustee or successor
18 trustee is not a necessary or proper party to any proceeding to determine
19 title to the property subject to the trust deed, or to any proceeding to im-
20 pose, enforce or foreclose any other lien on the subject property.

21 “(5) [*Nothing in*] **The provisions of ORS 86.705 to 86.795** [*imposes*] **do**
22 **not impose** a duty on the trustee or successor trustee to notify any person
23 of any proceeding with respect to the person, except a proceeding that the
24 trustee or successor trustee initiates.

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

28 “(7) The trustee or successor trustee [*has no*] **does not have a** fiduciary
29 duty or fiduciary obligation to the grantor or other persons that have an
30 interest in the property subject to the trust deed. The trustee or successor

1 trustee [*may not be*] **is not** relieved of the duty to reconvey the property that
2 is subject to the trust deed to the grantor [*upon the beneficiary's request*
3 *for*] **when the beneficiary requests a** reconveyance.

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

12 “(9) If an attorney is the trustee under subsection [(1)(a)] **(1)(b)(A)** of this
13 section, another attorney who is an active member of the Oregon State Bar
14 and is a shareholder, partner, member or employee of the law practice in
15 which the attorney practices law may sign on the trustee’s behalf any docu-
16 ment that is permitted or required to be signed under ORS 86.705 to 86.795.
17 The attorney who signs the document shall make evident in the document
18 the attorney’s name and Oregon State Bar number and shall state in the
19 document that the trustee has authorized the attorney to sign the document
20 on the trustee’s behalf.

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

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

26