

**PROPOSED AMENDMENTS TO
SENATE BILL 558**

1 On page 1 of the printed bill, line 17, after the period delete the rest of
2 the line and lines 18 through 22 and insert “A beneficiary that is a trustee
3 shall include as part of the total number of foreclosure actions that the
4 beneficiary commenced in the previous calendar year all foreclosure actions
5 that the beneficiary commenced under ORS 86.735 or 88.010 in the
6 beneficiary’s capacity as a trustee.

7 “(B) A beneficiary that intends in any calendar year to claim an ex-
8 emption under this paragraph shall submit the affidavit before or at the same
9 time the beneficiary first files a notice of default under ORS 86.735 or brings
10 suit under ORS 88.010.

11 “(C) A beneficiary’s exemption under this paragraph begins on the date
12 that the beneficiary submits the affidavit and continues for the remainder
13 of the calendar year, at the end of which the exemption expires.”.

14 On page 2, delete lines 1 through 5.

15 In line 9, after “electronically” insert “, by facsimile”.

16 In line 10, after “amount” insert “and in a manner that”.

17 In line 32, after “electronically” insert “, by facsimile”.

18 On page 3, line 19, delete “for the facilitator’s services”.

19 In line 20, after “amount” insert “and in a manner that” and after the
20 second period insert “The service provider shall pay to the Attorney General,
21 for deposit into the Foreclosure Avoidance Fund established under section
22 4, chapter 112, Oregon Laws 2012, moneys the service provider receives from

1 the grantor under this paragraph.”.

2 After line 25, insert:

3 “(3) The grantor shall consult a housing counselor before attending the
4 resolution conference unless the grantor cannot obtain an appointment with
5 a housing counselor before the date of the resolution conference.”.

6 In line 26, delete “(3)” and insert “(4)”.

7 Delete lines 28 through 45 and insert:

8 “(a) Pay a fee to the service provider in an amount and in a manner that
9 the Attorney General specifies by rule. The service provider shall pay to the
10 Attorney General, for deposit into the Foreclosure Avoidance Fund estab-
11 lished under section 4, chapter 112, Oregon Laws 2012, moneys the service
12 provider receives from the beneficiary under this paragraph.

13 “(b) Submit to the service provider:

14 “(A) Copies of:

15 “(i) The residential trust deed; and

16 “(ii) The promissory note that is evidence of the obligation that the resi-
17 dential trust deed secures and that the beneficiary or beneficiary’s agent
18 certifies is a true copy;

19 “(B) The name and address of the person that owns the obligation that
20 is secured by the residential trust deed;

21 “(C) A record of the grantor’s payment history for the longer of the pre-
22 ceding 12 months or since the beneficiary last deemed the grantor current
23 on the obligation;

24 “(D) An itemized statement that shows:

25 “(i) The amount the grantor owes on the obligation, itemized to reflect
26 the principal, interest, fees, charges and any other amounts included within
27 the obligation; and

28 “(ii) The amount the grantor must pay to cure the grantor’s default;

29 “(E) A document that identifies:

30 “(i) Each net present value model that the beneficiary or the beneficiary’s

1 agent uses, if the beneficiary or beneficiary’s agent uses a net present value
2 model, to evaluate the grantor’s eligibility for a foreclosure avoidance
3 measure;

4 “(ii) The input values for each net present value model that the benefi-
5 ciary or the beneficiary’s agent uses; and”.

6 On page 4, line 11, delete “(4)(a)” and insert “(5)(a)”.

7 In line 14, after “writing” insert “that is not more than 30 days after the
8 original date scheduled for the resolution conference”.

9 In line 16, delete “(3)(a)” and insert “(4)(a)”.

10 In line 22, delete “(5)(a)” and insert “(6)(a)”.

11 Delete lines 25 through 35 and insert:

12 “(b) A facilitator is not subject to a subpoena and cannot be compelled
13 to testify in any proceeding that is related to a resolution conference, other
14 than a proceeding against a facilitator for an act or omission for which the
15 facilitator may be liable under paragraph (c) of this subsection.

16 “(c) A facilitator is not civilly liable for any act or omission done or made
17 while engaged in efforts to assist or facilitate a resolution conference unless
18 the facilitator acted or made an omission in bad faith, with malicious intent
19 or in a manner that exhibited a willful or wanton disregard of the rights,
20 safety or property of another person.

21 “(d) The limitations on liability provided by this subsection apply to the
22 officers, directors, employees and agents of the service provider and any
23 dispute resolution program engaged in facilitating resolution conferences.

24 “(e) Information that a beneficiary or grantor submits under this section
25 is not subject to ORS 192.410 to 192.505.”.

26 Delete lines 39 through 45 and insert:

27 “(b)(A) A beneficiary may send an agent to the resolution conference if
28 the agent attends the resolution conference in person and has complete au-
29 thority to negotiate on the beneficiary’s behalf and commit the beneficiary
30 to a foreclosure avoidance measure or, if the agent who attends the resol-

1 ution conference in person does not have complete authority, the beneficiary
2 also requires the participation, by remote communication in accordance with
3 rules that the Attorney General adopts, of a person who does have complete
4 authority to negotiate on the beneficiary’s behalf and commit the beneficiary
5 to a foreclosure avoidance measure.

6 “(B) A grantor may have an attorney or a housing counselor, or both,
7 present to represent the grantor at the resolution conference.”.

8 On page 5, line 30, delete “(3)” and insert “(4)”.

9 Delete lines 32 through 36 and insert:

10 “(C) Appeared in person at, or sent an agent in person to, the resolution
11 conference with complete authority to negotiate on the beneficiary’s behalf
12 and commit the beneficiary to a foreclosure avoidance measure or, if the
13 beneficiary or agent did not have complete authority, required the partic-
14 ipation, by remote communication in accordance with rules the Attorney
15 General adopts, of a person with complete authority to negotiate on the
16 beneficiary’s behalf and commit the beneficiary to a foreclosure avoidance
17 measure; and”.

18 In line 42, delete “paragraph (a) of this subsection” and insert “section
19 2, 3 or 4 of this 2013 Act”.

20 In line 45, delete “a” and insert “the”.

21 On page 6, line 2, delete “(4)(b)” and insert “(5)(b)”.

22 Delete lines 5 through 21 and insert:

23 **“SECTION 6. (1) The Attorney General shall:**

24 **“(a) Appoint and enter into an agreement with a service provider**
25 **to coordinate and manage a program to implement the provisions of**
26 **sections 2, 3, 4 and 5 of this 2013 Act.**

27 **“(b) Enter into an agreement for information technology goods or**
28 **services.**

29 **“(c) Receive affidavits submitted under section 2 (1)(b) of this 2013**
30 **Act and copies of notices sent under section 4a (1), chapter 112, Oregon**

1 **Laws 2012.**

2 **“(d) Specify the amount a beneficiary must pay to the service pro-**
3 **vider under sections 2 (2) and 3 (4)(a) of this 2013 Act and the amount**
4 **that the grantor must pay to the service provider under section 3 (2)(a)**
5 **of this 2013 Act.**

6 **“(e) Prescribe qualifications, training and experience requirements**
7 **for facilitators that conduct or assist resolution conferences.**

8 **“(f) Specify procedures and guidelines for conducting a resolution**
9 **conference.**

10 **“(g) Adopt additional rules to implement sections 2, 3, 4 and 5 of**
11 **this 2013 Act and sections 4 and 4a, chapter 112, Oregon Laws 2012.**

12 **“(2) The Attorney General shall pay for the service provider’s ser-**
13 **vices and for information technology goods and services from the**
14 **Foreclosure Avoidance Fund established under section 4, chapter 112,**
15 **Oregon Laws 2012. The Attorney General is not subject to ORS chap-**
16 **ters 279A, 279B or 279C in appointing a service provider or entering**
17 **into an agreement under subsection (1)(a) or (b) of this section.**

18 **“(3) In addition to and not in lieu of any other penalty provided by**
19 **law, violation of section 2 (1)(a) or (2), section 3 (4) or section 4 (1) or**
20 **(2) of this 2013 Act by a beneficiary or a beneficiary’s agent is an un-**
21 **lawful practice under ORS 646.607 that is subject to enforcement under**
22 **ORS 646.632.”.**

23 In line 40, delete “by rule”.

24 On page 9, line 32, restore the bracketed material.

25 In line 33, delete “a service provider to coordinate a”.

26 In line 36, restore “the expenses of coordinating” and delete “a service
27 provider to”.

28 In line 37, delete “coordinate”.

29 On page 10, line 18, restore the bracketed material and delete the second
30 “(1)”.

1 In line 20, delete “any” and insert “a”.

2 After line 28, insert:

3 “(b) This subsection does not impose an affirmative duty on the benefi-
4 ary to determine if a grantor is eligible for a foreclosure avoidance
5 measure.”.

6 On page 14, line 14, after “beneficiary” insert “or a beneficiary’s agent”
7 and delete “(3)” and insert “(4)”.

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