

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4103**

1 On page 1 of the printed bill, line 2, after the second semicolon delete the  
2 rest of the line and line 3 and insert “amending ORS 87.192, 87.196 and  
3 646.608; and declaring an emergency.”.

4 Delete lines 5 through 24 and delete pages 2 and 3 and insert:

5 **“SECTION 1.** ORS 87.192 is amended to read:

6 “87.192. (1)(a) Before a lien claimant forecloses **by sale** a lien created  
7 [by] **under** ORS 87.152 to 87.162 [by sale], the lien claimant shall give notice  
8 of the foreclosure sale to the lien debtor by first class mail with certificate  
9 of mailing, registered mail or certified mail sent to the lien debtor at the lien  
10 debtor’s last-known address. The lien claimant shall give notice of the fore-  
11 closure sale to the lien debtor:

12 “[a)] (A) Except as otherwise provided in this [subsection] **paragraph**,  
13 at least 30 days before the foreclosure sale.

14 “[b)] (B) If the lien is for the cost of removing, towing or [storage of]  
15 **storing** a vehicle that [is appraised at a value of \$500 or less by] a person  
16 who holds a certificate issued under ORS 819.480 **has appraised at a value**  
17 **of \$1,000 or less**, at least 15 days before the foreclosure sale.

18 “[c) *If the lien is for the cost of removing, towing or storage of a vehicle*  
19 *that is appraised at a value of \$1,000 or less but more than \$500 by a person*  
20 *who holds a certificate issued under ORS 819.480, at least 15 days before the*  
21 *foreclosure sale.*]

22 “[d) *If the lien is for the cost of removing, towing or storage of a vehicle*

1 *that is appraised at a value of more than \$1,000 by a person who holds a cer-*  
2 *tificate issued under ORS 819.480, at least 30 days before the foreclosure*  
3 *sale.]*

4 **“(b) If the chattel to be sold at a foreclosure sale is chattel for**  
5 **which the Department of Transportation has issued a certificate of**  
6 **title under ORS 803.045, for which the State Marine Board requires a**  
7 **certificate of title under ORS 830.810 or for which the Oregon Depart-**  
8 **ment of Aviation requires a certificate of registration under ORS**  
9 **837.040, the lien claimant shall include with the notice described in**  
10 **paragraph (a) of this subsection a copy of an invoice, work or repair**  
11 **order, authorization for towing, official form that authorizes a law**  
12 **enforcement agency to impound the chattel or any other record or**  
13 **document that is evidence of the basis for the lien.**

14 **“(c) A lien claimant’s failure to give a lien debtor notice in ac-**  
15 **cordance with this section concerning a foreclosure sale for chattel**  
16 **described in paragraph (b) of this subsection is an unlawful practice**  
17 **under ORS 646.608.**

18 **“(2) The lien claimant shall give public notice of the foreclosure sale by**  
19 **posting notice of [it] the foreclosure sale in a public place at or near the**  
20 **front door of the county courthouse of the county in which the sale is to be**  
21 **held and, except as provided in paragraph (b) of this subsection, in a public**  
22 **place at the location where the lien claimant obtained possession of the**  
23 **chattel to be sold from the lien debtor. The following apply to notice under**  
24 **this subsection:**

25 **“(a) The lien claimant shall give notice under this subsection [must be**  
26 **given no] not later than the time required for notice to a lien debtor under**  
27 **subsection (1) of this section.**

28 **“(b) This subsection does not require the lien claimant to post [posting**  
29 **of] notice at the location where the lien claimant obtained the chattel**  
30 **[was obtained] if the chattel is a [vehicle required to obtain a certificate of**

1 *title issued under ORS chapter 803*] **chattel for which the Department of**  
2 **Transportation has issued a certificate of title under ORS 803.045, for**  
3 **which the State Marine Board requires a certificate of title under ORS**  
4 **830.810 or for which the Oregon Department of Aviation requires a**  
5 **certificate of registration under ORS 837.040.**

6 “(3) If the chattel to be sold at a foreclosure sale is something other than  
7 an abandoned vehicle and has a fair market value of \$1,000 or more, or if the  
8 chattel to be sold is an abandoned vehicle and has a fair market value of  
9 \$2,500 or more, the lien claimant, in addition to the notice required by sub-  
10 section (2) of this section, shall have a notice of foreclosure sale printed once  
11 a week for two successive weeks in a daily or weekly newspaper, as defined  
12 in ORS 193.010, published in the county in which the sale is held or, if there  
13 is none, in a daily or weekly newspaper, as defined in ORS 193.010, generally  
14 circulated in the county in which the sale is held.

15 “(4) The notice of foreclosure sale required under this section [*shall*]  
16 **must** contain a particular description of the property to be sold, the name  
17 of the owner or reputed owner [*thereof*] **of the property**, the amount due on  
18 the lien, the time and the place of the sale and the name of the person  
19 foreclosing the lien.

20 **“SECTION 2.** ORS 87.196 is amended to read:

21 “87.196. (1)(a) A lien claimant [*who*] **that** forecloses **by sale** a lien created  
22 [*by*] **under** ORS 87.152 to 87.162 [*by sale*] shall give notice of the foreclosure  
23 sale by first class, registered or certified mail. The following apply:

24 “[*a*] (A) [*Notice shall be given*] **The lien claimant shall give notice** to  
25 all persons [*with a security interest in the chattel to be sold who*] **that** have  
26 filed a financing statement [*perfecting that security interest*] in the office of  
27 the Secretary of State, or in the office of the appropriate county officer of  
28 the county in which the sale is held, **to perfect a security interest in the**  
29 **chattel to be sold.**

30 “[*b*] (B) Notwithstanding [*paragraph (a) of this subsection*] **subpara-**

1 **graph (A) of this paragraph**, if the chattel to be sold at the foreclosure  
2 sale is a chattel, other than part of the motor vehicle inventory of a dealer  
3 issued a vehicle dealer certificate under ORS 822.020, for which [*a certificate*  
4 *of title is required by the laws of this state, notice need only be given to per-*  
5 *sons who the certificate of title indicates have a security interest or lien in the*  
6 *chattel*] **the Department of Transportation has issued a certificate of**  
7 **title under ORS 803.045, for which the State Marine Board requires a**  
8 **certificate of title under ORS 830.810 or for which the Oregon Depart-**  
9 **ment of Aviation requires a certificate of registration under ORS**  
10 **837.040, the lien claimant needs to give notice only to persons that the**  
11 **certificate of title or certificate of registration indicates have a secu-**  
12 **urity interest or lien in the chattel.**

13 “[(c)] **(C) [Notice] The lien claimant shall give notice** under this [*sub-*  
14 *section shall be given*] **paragraph** at least 30 days [*prior to*] **before** the  
15 foreclosure sale[. *However, if the lien is claimed*], **but if the lien claimant**  
16 **claims a lien** under ORS 87.152, the lien claimant shall give the notice re-  
17 quired by this subsection:

18 “[A)] **(i)** Not later than the 20th day after the date on which the storage  
19 charges begin;

20 “[B)] **(ii)** [*If no storage charges are imposed,*] Not later than the 30th day  
21 after the date on which the services provided are completed[;], **if no storage**  
22 **charges are imposed; or**

23 “[C)] **(iii)** At least 15 days [*prior to*] **before** the foreclosure sale if the  
24 lien is for the cost of removing, towing or [*storage of*] **storing** a vehicle that  
25 [*is appraised at a value of \$1,000 or less but more than \$500 by*] a person who  
26 holds a certificate issued under ORS 819.480 **has appraised at a value of**  
27 **\$1,000 or less.** [; *and*]

28 “[D) *At least 15 days prior to the foreclosure sale if the lien is for the cost*  
29 *of removing, towing or storage of a vehicle that is appraised at a value of \$500*  
30 *or less by a person who holds a certificate issued under ORS 819.480.*]

1       “(b) A lien claimant that gives notice of a foreclosure sale for  
2 chattel described in paragraph (a)(B) of this subsection shall include  
3 with the notice a copy of an invoice, work or repair order, authori-  
4 zation for towing, official form that authorizes a law enforcement  
5 agency to impound the chattel or any other record or document that  
6 is evidence of the basis for the lien.

7       “(c) A lien claimant’s failure to give the notice required under this  
8 subsection to a person that is entitled to notice under paragraph (a)(B)  
9 of this subsection is an unlawful practice under ORS 646.608.

10       “(2) A person notified under subsection (1) of this section may discharge  
11 the lien and preserve the person’s security interest in the chattel by paying  
12 the lien claimant the amount of the lien claim and reasonable expenses **the**  
13 **person** actually [*incurred*] **incurs** in foreclosing the lien claim. If the person  
14 does not [*so*] discharge the lien before the day of the foreclosure sale, the  
15 **foreclosure sale extinguishes the** person’s security interest in the chattel  
16 [*is extinguished on the day the foreclosure sale is completed*].

17       “[(3) *If the chattel to be sold at a foreclosure sale is a chattel for which a*  
18 *certificate of title is required by the laws of this state and if the lien claimant*  
19 *does not notify a person as required by this section, the chattel remains subject*  
20 *to that security interest or lien and the buyer of the chattel at a foreclosure*  
21 *sale held under ORS 87.142 to 87.490 or 87.700 to 87.736 takes the chattel*  
22 *subject to the security interest or lien.*]

23       “[(4)] (3) If a lien claimant does not **give notice in accordance with**  
24 **subsection (1) of this section** [*notify a person, other than a person indicated*  
25 *on a certificate of title as a secured party or lienholder, who*] **to a person that**  
26 **claims a security interest or lien on the chattel sold at a foreclosure sale**  
27 [*as required by subsection (1) of this section*], **other than a person that is**  
28 **entitled to notice under subsection (1)(a)(B) of this section**, the lien  
29 claimant is liable to [*that*] **the** person for a sum equal to the fair market  
30 value of the chattel sold at the foreclosure sale or the amount due [*that*] **to**

1 **the** person under the security agreement or lien at the time of the foreclo-  
2 sure sale, whichever amount is less. The secured party or other lien claimant  
3 may recover [*that*] **the** sum by an action at law.

4 **“SECTION 3.** ORS 646.608 is amended to read:

5 “646.608. (1) A person engages in an unlawful practice if in the course of  
6 the person’s business, vocation or occupation the person does any of the  
7 following:

8 “(a) Passes off real estate, goods or services as the real estate, goods or  
9 services of another.

10 “(b) Causes likelihood of confusion or of misunderstanding as to the  
11 source, sponsorship, approval, or certification of real estate, goods or ser-  
12 vices.

13 “(c) Causes likelihood of confusion or of misunderstanding as to affil-  
14 iation, connection, or association with, or certification by, another.

15 “(d) Uses deceptive representations or designations of geographic origin  
16 in connection with real estate, goods or services.

17 “(e) Represents that real estate, goods or services have sponsorship, ap-  
18 proval, characteristics, ingredients, uses, benefits, quantities or qualities that  
19 the real estate, goods or services do not have or that a person has a spon-  
20 sorship, approval, status, qualification, affiliation, or connection that the  
21 person does not have.

22 “(f) Represents that real estate or goods are original or new if the real  
23 estate or goods are deteriorated, altered, reconditioned, reclaimed, used or  
24 secondhand.

25 “(g) Represents that real estate, goods or services are of a particular  
26 standard, quality, or grade, or that real estate or goods are of a particular  
27 style or model, if the real estate, goods or services are of another.

28 “(h) Disparages the real estate, goods, services, property or business of a  
29 customer or another by false or misleading representations of fact.

30 “(i) Advertises real estate, goods or services with intent not to provide

1 the real estate, goods or services as advertised, or with intent not to supply  
2 reasonably expectable public demand, unless the advertisement discloses a  
3 limitation of quantity.

4 “(j) Makes false or misleading representations of fact concerning the  
5 reasons for, existence of, or amounts of price reductions.

6 “(k) Makes false or misleading representations concerning credit avail-  
7 ability or the nature of the transaction or obligation incurred.

8 “(L) Makes false or misleading representations relating to commissions  
9 or other compensation to be paid in exchange for permitting real estate,  
10 goods or services to be used for model or demonstration purposes or in ex-  
11 change for submitting names of potential customers.

12 “(m) Performs service on or dismantles any goods or real estate if the  
13 owner or apparent owner of the goods or real estate does not authorize the  
14 service or dismantling.

15 “(n) Solicits potential customers by telephone or door to door as a seller  
16 unless the person provides the information required under ORS 646.611.

17 “(o) In a sale, rental or other disposition of real estate, goods or services,  
18 gives or offers to give a rebate or discount or otherwise pays or offers to pay  
19 value to the customer in consideration of the customer giving to the person  
20 the names of prospective purchasers, lessees, or borrowers, or otherwise  
21 aiding the person in making a sale, lease, or loan to another person, if  
22 earning the rebate, discount or other value is contingent upon an event oc-  
23 ccurring after the time the customer enters into the transaction.

24 “(p) Makes any false or misleading statement about a prize, contest or  
25 promotion used to publicize a product, business or service.

26 “(q) Promises to deliver real estate, goods or services within a certain  
27 period of time with intent not to deliver the real estate, goods or services  
28 as promised.

29 “(r) Organizes or induces or attempts to induce membership in a pyramid  
30 club.

1 “(s) Makes false or misleading representations of fact concerning the of-  
2 fering price of, or the person’s cost for real estate, goods or services.

3 “(t) Concurrent with tender or delivery of any real estate, goods or ser-  
4 vices fails to disclose any known material defect or material nonconformity.

5 “(u) Engages in any other unfair or deceptive conduct in trade or com-  
6 merce.

7 “(v) Violates any of the provisions relating to auction sales, consignment  
8 sales, auctioneers, consignees or auction marts under ORS 698.640, whether  
9 in a commercial or noncommercial situation.

10 “(w) Manufactures mercury fever thermometers.

11 “(x) Sells or supplies mercury fever thermometers unless the thermometer  
12 is required by federal law, or is:

13 “(A) Prescribed by a person licensed under ORS chapter 677; and

14 “(B) Supplied with instructions on the careful handling of the  
15 thermometer to avoid breakage and on the proper cleanup of mercury should  
16 breakage occur.

17 “(y) Sells a thermostat that contains mercury unless the thermostat is  
18 labeled in a manner to inform the purchaser that mercury is present in the  
19 thermostat and that the thermostat may not be disposed of until the mercury  
20 is removed, reused, recycled or otherwise managed to ensure that the mer-  
21 cury does not become part of the solid waste stream or wastewater. For  
22 purposes of this paragraph, ‘thermostat’ means a device commonly used to  
23 sense and, through electrical communication with heating, cooling or venti-  
24 lation equipment, control room temperature.

25 “(z) Sells or offers for sale a motor vehicle manufactured after January  
26 1, 2006, that contains mercury light switches.

27 “(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

28 “(bb) Violates ORS 646A.070 (1).

29 “(cc) Violates any requirement of ORS 646A.030 to 646A.040.

30 “(dd) Violates the provisions of ORS 128.801 to 128.898.



- 1 “(ee) Violates ORS 646.883 or 646.885.
- 2 “(ff) Violates ORS 646.569.
- 3 “(gg) Violates the provisions of ORS 646A.142.
- 4 “(hh) Violates ORS 646A.360.
- 5 “(ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 6 “(jj) Violates ORS 646.563.
- 7 “(kk) Violates ORS 759.690 or any rule adopted pursuant thereto.
- 8 “(LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any
- 9 rule adopted pursuant thereto.
- 10 “(mm) Violates ORS 646A.210 or 646A.214.
- 11 “(nn) Violates any provision of ORS 646A.124 to 646A.134.
- 12 “(oo) Violates ORS 646A.095.
- 13 “(pp) Violates ORS 822.046.
- 14 “(qq) Violates ORS 128.001.
- 15 “(rr) Violates ORS 646A.800 (2) to (4).
- 16 “(ss) Violates ORS 646A.090 (2) to (4).
- 17 “(tt) Violates ORS 87.686.
- 18 “(uu) Violates ORS 646A.803.
- 19 “(vv) Violates ORS 646A.362.
- 20 “(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or
- 21 646A.054.
- 22 “(xx) Violates ORS 180.440 (1) or 180.486 (1).
- 23 “(yy) Commits the offense of acting as a vehicle dealer without a certif-
- 24 icate under ORS 822.005.
- 25 “(zz) Violates ORS 87.007 (2) or (3).
- 26 “(aaa) Violates ORS 92.405 (1), (2) or (3).
- 27 “(bbb) Engages in an unlawful practice under ORS 646.648.
- 28 “(ccc) Violates ORS 646A.365.
- 29 “(ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
- 30 “(eee) Sells a gift card in violation of ORS 646A.276.

1 “(fff) Violates ORS 646A.102, 646A.106 or 646A.108.  
2 “(ggg) Violates ORS 646A.430 to 646A.450.  
3 “(hhh) Violates a provision of ORS 744.318 to 744.384.  
4 “(iii) Violates a provision of ORS 646A.702 to 646A.720.  
5 “(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning  
6 or declaration described in ORS 646A.530 is issued for the children’s product,  
7 as defined in ORS 646A.525, that is the subject of the violation.  
8 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662,  
9 697.682, 697.692 or 697.707.  
10 “(LLL) Violates the consumer protection provisions of the  
11 Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as in effect on  
12 January 1, 2010.  
13 “(mmm) Violates a provision of ORS 646A.480 to 646A.495.  
14 “(nnn) Violates ORS 646A.082.  
15 “(ooo) Violates ORS 646.647.  
16 “(ppp) Violates ORS 646A.115.  
17 “(qqq) Violates a provision of ORS 646A.405.  
18 “(rrr) Violates ORS 646A.092.  
19 “(sss) Violates a provision of ORS 646.644.  
20 “(ttt) Violates a provision of ORS 646A.295.  
21 “(uuu) Violates ORS 646A.564.  
22 “(vvv) Engages in the business of, or acts in the capacity of, an immi-  
23 gration consultant, as defined in ORS 9.280, in this state and for compen-  
24 sation, unless federal law authorizes the person to do so or unless the person  
25 is an active member of the Oregon State Bar.  
26 “(www) Violates ORS 702.012, 702.029, 702.032 or 702.054.  
27 “(xxx) Violates ORS 646A.806.  
28 “(yyy) **Violates ORS 87.192 (1) or 87.196 (1).**  
29 “(2) A representation under subsection (1) of this section or ORS 646.607  
30 may be any manifestation of any assertion by words or conduct, including,

1 but not limited to, a failure to disclose a fact.

2 “(3) In order to prevail in an action or suit under ORS 646.605 to 646.652,  
3 a prosecuting attorney need not prove competition between the parties or  
4 actual confusion or misunderstanding.

5 “(4) An action or suit may not be brought under subsection (1)(u) of this  
6 section unless the Attorney General has first established a rule in accord-  
7 ance with the provisions of ORS chapter 183 declaring the conduct to be  
8 unfair or deceptive in trade or commerce.

9 “(5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an  
10 action or suit is brought under subsection (1)(xx) of this section by a person  
11 other than a prosecuting attorney, relief is limited to an injunction and the  
12 prevailing party may be awarded reasonable attorney fees.

13 **“SECTION 4. (1) The amendments to ORS 87.192, 87.196 and 646.608  
14 by sections 1, 2 and 3 of this 2014 Act become operative January 1, 2015.**

15 **“(2) The Director of Transportation, the State Marine Board and the  
16 Director of the Oregon Department of Aviation may take any action  
17 before the operative date specified in subsection (1) of this section that  
18 is necessary to enable the director or the board to exercise, on and  
19 after the operative date specified in subsection (1) of this section, all  
20 of the duties, functions and powers conferred on the director or the  
21 board by the amendments to ORS 87.192, 87.196 and 646.608 by sections  
22 1, 2 and 3 of this 2014 Act.**

23 **“SECTION 5. This 2014 Act being necessary for the immediate  
24 preservation of the public peace, health and safety, an emergency is  
25 declared to exist, and this 2014 Act takes effect on its passage.”.**

26