

D R A F T

SUMMARY

Provides that borrower or borrower's agent may rely on lender's payoff statement for amount required to discharge mortgage or perform obligation necessary to request reconveyance of estate of real property described in trust deed unless lender delivers amended payoff statement. Provides that lender may recover amounts that borrower owes that do not appear in payoff statement only as unsecured debt or by foreclosing other property that secures obligation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to statements concerning obligations borrowers owe to lenders un-
3 der real estate loan agreements; amending ORS 86.157; and declaring an
4 emergency.

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

6 **SECTION 1.** ORS 86.157 is amended to read:

7 86.157. (1) As used in this section:

8 (a) "Borrower" means an individual who, directly or indirectly and indi-
9 vidually or together with another person, is obligated on a real estate loan
10 agreement, including but not limited to a mortgagor or a grantor, as defined
11 in ORS 86.705, **or an assignee or successor in interest.**

12 (b) "Lender" means a person that makes, extends or holds a real estate
13 loan agreement, including but not limited to a mortgagee or a beneficiary,
14 as defined in ORS 86.705, **or an assignee or successor in interest.**

15 (c) "**Payoff statement**" means a written statement that sets forth,
16 as of the date the lender prepares the statement, amounts a borrower
17 **must pay in order to fully satisfy the borrower's obligation under a**

1 **real estate loan agreement.**

2 [(c)] (d) “Real estate loan agreement” means an arrangement between a
3 lender and a borrower, including but not limited to a mortgage or a trust
4 deed, by means of which the lender agrees to extend a loan and the borrower
5 agrees to secure the loan in whole or in part with residential property, or
6 an interest in residential property, that is located in this state.

7 [(d)] (e) “Residential property” means real property upon which is situ-
8 ated four or fewer improvements designed for residential use, one of which
9 a borrower occupies as the borrower’s residence.

10 [(e)] (f) “Residual debt” means an amount due on a loan, evidence of
11 which exists in a real estate loan agreement, note, bond, contract or similar
12 written agreement, that a borrower is unable to pay out of the proceeds from
13 a sale of the residential property that secures the loan.

14 [(f)] (g) “Short sale” means a sale of residential property that is subject
15 to foreclosure under ORS 86.705 to 86.815 or ORS chapter 88 for an amount
16 that is less than the remaining amount due on the loan that the residential
17 property secures.

18 (2) If a lender reports to the Internal Revenue Service that as a conse-
19 quence of or in conjunction with a short sale of residential property the
20 lender has canceled all or a portion of a borrower’s [*debt*] **obligation** under
21 a real estate loan agreement and the lender provides to the borrower written
22 evidence of the lender’s report to the Internal Revenue Service, the lender
23 or an assignee of the lender may not bring an action or otherwise seek
24 payment for the residual debt following the short sale.

25 **(3)(a) Except as provided in paragraph (b) of this subsection, a**
26 **borrower or an agent of the borrower may rely on a payoff statement**
27 **for the purpose of establishing the amount the borrower must pay to**
28 **satisfy the borrower’s obligation under a real estate loan agreement.**

29 **(b) A borrower or an agent of the borrower may not rely on a payoff**
30 **statement if a lender prepares and delivers an amended payoff state-**
31 **ment to the borrower or borrower’s agent. For purposes of this para-**

1 graph, a lender delivers a payoff statement to the borrower if the
2 lender provides the payoff statement by electronic means in accord-
3 ance with ORS chapter 84, sends the payoff statement by United States
4 mail postage prepaid and correctly addressed to the borrower or sends
5 the payoff statement by facsimile.

6 (4) If an amount that a borrower owes under a real estate loan
7 agreement does not appear on a payoff statement, the lender may re-
8 cover the amount only as an unsecured obligation or only by fore-
9 closing a mortgage, trust deed or security agreement for any other
10 property that secures the obligation.

11 (5) To satisfy an obligation set forth in a payoff statement, a bor-
12 rower must submit the amount shown in the payoff statement, in-
13 struct the lender to close any line of credit that is related to the
14 obligation and request a certificate described in ORS 86.100 or a
15 reconveyance under ORS 86.720. A borrower that disburses funds to a
16 lender in the amount shown in the payoff statement or an amended
17 payoff statement has discharged a mortgage for the purpose of re-
18 questing a certificate under ORS 86.100 or performed the borrower's
19 obligation for the purpose of requesting a reconveyance under ORS
20 86.720.

21 SECTION 2. This 2015 Act being necessary for the immediate pres-
22 ervation of the public peace, health and safety, an emergency is de-
23 clared to exist, and this 2015 Act takes effect on its passage.

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