

House Bill 3244

Sponsored by COMMITTEE ON BUSINESS AND LABOR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 under real estate loan
3 agreements; amending ORS 86.157; and declaring an emergency.

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

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

6 86.157. (1) As used in this section:

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

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

13 (c) "**Payoff statement**" means a written statement that sets forth, as of the date the
14 lender prepares the statement, amounts a borrower must pay in order to fully satisfy the
15 borrower's obligation under a real estate loan agreement.

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

20 [(d)] (e) "Residential property" means real property upon which is situated four or fewer im-
21 provements designed for residential use, one of which a borrower occupies as the borrower's resi-
22 dence.

23 [(e)] (f) "Residual debt" means an amount due on a loan, evidence of which exists in a real es-
24 tate loan agreement, note, bond, contract or similar written agreement, that a borrower is unable
25 to pay out of the proceeds from a sale of the residential property that secures the loan.

26 [(f)] (g) "Short sale" means a sale of residential property that is subject to foreclosure under
27 ORS 86.705 to 86.815 or ORS chapter 88 for an amount that is less than the remaining amount due
28 on the loan that the residential property secures.

29 (2) If a lender reports to the Internal Revenue Service that as a consequence of or in conjunc-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 tion with a short sale of residential property the lender has canceled all or a portion of a borrower's
 2 [*debt*] **obligation** under a real estate loan agreement and the lender provides to the borrower written
 3 evidence of the lender's report to the Internal Revenue Service, the lender or an assignee of the
 4 lender may not bring an action or otherwise seek payment for the residual debt following the short
 5 sale.

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

9 **(b) A borrower or an agent of the borrower may not rely on a payoff statement if a**
 10 **lender prepares and delivers an amended payoff statement to the borrower or borrower's**
 11 **agent. For purposes of this paragraph, a lender delivers a payoff statement to the borrower**
 12 **if the lender provides the payoff statement by electronic means in accordance with ORS**
 13 **chapter 84, sends the payoff statement by United States mail postage prepaid and correctly**
 14 **addressed to the borrower or sends the payoff statement by facsimile.**

15 **(4) If an amount that a borrower owes under a real estate loan agreement does not ap-**
 16 **pear on a payoff statement, the lender may recover the amount only as an unsecured obli-**
 17 **gation or only by foreclosing a mortgage, trust deed or security agreement for any other**
 18 **property that secures the obligation.**

19 **(5) To satisfy an obligation set forth in a payoff statement, a borrower must submit the**
 20 **amount shown in the payoff statement, instruct the lender to close any line of credit that**
 21 **is related to the obligation and request a certificate described in ORS 86.100 or a**
 22 **reconveyance under ORS 86.720. A borrower that disburses funds to a lender in the amount**
 23 **shown in the payoff statement or an amended payoff statement has discharged a mortgage**
 24 **for the purpose of requesting a certificate under ORS 86.100 or performed the borrower's**
 25 **obligation for the purpose of requesting a reconveyance under ORS 86.720.**

26 **SECTION 2. This 2015 Act being necessary for the immediate preservation of the public**
 27 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
 28 **on its passage.**