

Enrolled
Senate Bill 252

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for Department of Veterans' Affairs)

CHAPTER

AN ACT

Relating to exemption of Department of Veterans' Affairs from certain foreclosure practices; amending ORS 86.726.

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

SECTION 1. ORS 86.726 is amended to read:

86.726. (1)(a) Except as provided in paragraph (b) of this subsection **and subsection (5) of this section**, a beneficiary that intends to foreclose a residential trust deed shall first request a resolution conference with the grantor before the beneficiary or the trustee files a notice of default under ORS 86.752 or before the beneficiary brings suit under ORS 88.010.

(b)(A) The requirement to request or participate in a resolution conference with a grantor in accordance with subsection (2) or (3) of this section does not apply to a beneficiary if the beneficiary submits to the Attorney General a sworn affidavit that states that during the preceding calendar year the beneficiary did not commence or cause an affiliate, subsidiary or agent of the beneficiary to commence more than 175 actions to foreclose a residential trust deed by advertisement and sale under ORS 86.752 or by suit under ORS 88.010. A beneficiary that is a trustee shall include as part of the total number of foreclosure actions that the beneficiary commenced in the previous calendar year all foreclosure actions that the beneficiary commenced under ORS 86.752 or 88.010 in the beneficiary's capacity as a trustee. A beneficiary that intends to claim an exemption under this subparagraph shall submit the affidavit in a form and with the contents the Attorney General specifies by rule either:

(i) Not later than January 31 in any calendar year in which the beneficiary intends to claim the exemption for the remainder of the calendar year; or

(ii) At the time the beneficiary files a notice of default under ORS 86.752 or brings suit under ORS 88.010.

(B) An exemption under subparagraph (A) of this paragraph expires at the end of the calendar year in which the beneficiary claims the exemption.

(c) **Except as provided in subsection (5) of this section**, a beneficiary that claims an exemption under this subsection is not exempt from the requirements set forth in ORS 86.748.

(2) The beneficiary shall request a resolution conference through the service provider. The beneficiary shall submit the request to the service provider electronically, by facsimile or by mail and shall submit a processing fee in an amount and in a manner that the Attorney General specifies by rule. The service provider shall pay to the Attorney General, for deposit into the Foreclosure

Avoidance Fund established under ORS 86.744, moneys the service provider receives from the beneficiary under this subsection. The beneficiary's request under this subsection must identify the residential trust deed that the beneficiary intends to foreclose and list the name, title, address, telephone number and other available contact information for:

(a) The beneficiary;

(b) Any agent of the beneficiary that will attend the resolution conference;

(c) Any person other than a person identified in paragraph (a) or (b) of this subsection that will receive, on the beneficiary's behalf, notices or other communications related to the resolution conference; and

(d) The grantor.

(3)(a) If a beneficiary does not request a resolution conference under subsection (1) of this section, a grantor may request a resolution conference with the beneficiary if:

(A) The beneficiary or the trustee has not filed a notice of default under ORS 86.752 or the beneficiary has not commenced a suit under ORS 88.010; and

(B) The grantor first obtains from a housing counselor a certification in writing that the grantor is more than 30 days in default on the obligation that the residential trust deed secures or, if the grantor is not in default, that the grantor has a financial hardship that the housing counselor believes may qualify the grantor for a foreclosure avoidance measure.

(b) A grantor shall request a resolution conference through the service provider. The grantor shall submit the request to the service provider electronically, by facsimile or by mail and shall enclose with the request the written certification the housing counselor provides under paragraph (a)(B) of this subsection. The Attorney General by rule shall specify the information that the request must include.

(c) A beneficiary that receives a notice from a service provider after the service provider receives a request from a grantor under paragraph (b) of this subsection is subject to the requirements set forth in this section and ORS 86.729, 86.732, 86.736 and 86.748.

(d) This subsection does not apply to a beneficiary that has submitted an affidavit and is exempt under subsection (1)(b) of this section.

(4) A beneficiary that submitted an affidavit in accordance with subsection (1)(b) of this section may, without waiving the exemption the beneficiary claimed in the affidavit, request a resolution conference with a grantor. The beneficiary shall submit a request under this subsection in accordance with the requirements set forth in subsection (2) of this section, except that submitting the request does not require a processing fee.

(5) The requirement to request or participate in a resolution conference with a grantor in accordance with subsection (2) or (3) of this section does not apply to the Department of Veterans' Affairs in its capacity as a beneficiary of loans made under ORS 407.125.

Passed by Senate April 7, 2015

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 3, 2015

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2015

Approved:

.....M,....., 2015

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2015

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Jeanne P. Atkins, Secretary of State