

# House Bill 3209

Sponsored by Representative HOLVEY (at the request of Oregon Housing Alliance)

## 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**.

Directs Housing and Community Services Department to make grants to nonprofit housing counseling agencies for purpose of providing appropriate housing counseling services to grantors at risk of foreclosure on real property that is subject to residential trust deed or mortgage.

Establishes Housing Counseling Fund in State Treasury, separate and distinct from General Fund. Requires department to disburse all grants from fund.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to foreclosure avoidance; creating new provisions; amending ORS 86.707; and declaring an  
3 emergency.

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

5 **SECTION 1. Sections 2 and 3 of this 2021 Act are added to and made a part of ORS 86.705**  
6 **to 86.815.**

7 **SECTION 2. (1)(a) The Housing and Community Services Department shall grant to one**  
8 **or more nonprofit housing counseling agencies sufficient funding to provide the services of**  
9 **a housing counselor to each eligible grantor who:**

10 (A) Requests a resolution conference with a beneficiary under ORS 86.726 (3); or

11 (B) Contacts the department to request the services of a housing counselor.

12 (b) The department shall disburse all grant moneys under this section from the Housing  
13 Counseling Fund established under section 3 of this 2021 Act.

14 (2)(a) A nonprofit housing counseling agency to which the department provides funding  
15 under this section must employ and provide services to grantors through housing counselors  
16 that the federal Department of Housing and Urban Development has certified under 12 U.S.C.  
17 1701x.

18 (b) The Housing and Community Services Department by rule may specify application  
19 materials and other criteria under which a nonprofit housing counseling agency may receive  
20 funding under this section. The department may also specify such reporting, record keeping  
21 and auditing requirements for the nonprofit housing counseling agency as the department  
22 deems necessary or advisable for ensuring that the nonprofit housing counseling agency uses  
23 the funding for the purposes specified in this section. A nonprofit housing counseling agency  
24 that receives funding under this section shall make such records and reports as the depart-  
25 ment specifies by rule available for the department's inspection during regular business  
26 hours.

27 (3)(a) The department by rule shall determine criteria under which a grantor is eligible  
28 for the services of a housing counselor under this section and the extent of the services the  
29 grantor may receive. The criteria, at a minimum, must provide that:

**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 (A) The grantor owns real property that the grantor uses as the grantor's primary resi-  
2 dence and that is subject to a residential trust deed or a mortgage;

3 (B) The grantor has had a loss of income that jeopardizes the grantor's ability to make  
4 one or more required periodic payments or other required payments on an obligation that is  
5 secured by the residential trust deed or mortgage; and

6 (C) The beneficiary in the trust deed has not yet recorded a notice of default or a notice  
7 of sale or has not brought suit to foreclose the residential trust deed or mortgage.

8 (b) The department shall specify the contents of and make available to grantors, elec-  
9 tronically or otherwise, such application materials and other resources as are necessary for  
10 eligible grantors to qualify for housing counseling under this section.

11 (c) The department shall ensure that the funding the department provides for housing  
12 counseling services is sufficient to enable the grantor, as is appropriate under the grantor's  
13 circumstances, to:

14 (A) Understand the options available to the grantor to avoid foreclosure or, if appropri-  
15 ate, to understand how to negotiate a foreclosure avoidance measure with a beneficiary;

16 (B) Understand and manage the grantor's finances to the extent possible or necessary  
17 to avoid foreclosure;

18 (C) Understand and utilize available community resources, including public assistance  
19 programs, mortgage assistance programs, home repair assistance programs, utility assist-  
20 ance programs, food assistance programs and other social services;

21 (D) Seek employment or employment education and training; and

22 (E) Develop any other understanding or skill the department deems necessary and spec-  
23 ifies by rule.

24 (4) The department shall undertake publicity efforts to make residents of this state  
25 aware of the existence of housing counseling services and the availability of the services  
26 under the circumstances described in this section. The publicity must include links on the  
27 department's website to appropriate application materials and referrals to information nec-  
28 essary to qualify for, properly understand and use the services of a housing counselor.

29 **SECTION 3.** (1) The Housing Counseling Fund is established in the State Treasury, sep-  
30 arate and distinct from the General Fund. The Housing Counseling Fund consists of moneys  
31 the Housing and Community Services Department receives as appropriations or from any  
32 other source for the purposes of making grants to nonprofit housing counseling agencies in  
33 accordance with section 2 of this 2021 Act. The moneys in the Housing Counseling Fund are  
34 continuously appropriated to the department. Interest earned on moneys in the Housing  
35 Counseling Fund must be credited to the fund.

36 (2) The department may receive moneys for the purposes set forth in subsection (1) of  
37 this section from any public or private source.

38 **SECTION 4.** ORS 86.707 is amended to read:

39 86.707. As used in this section, sections 2 and 3 of this 2021 Act and ORS 86.726, 86.729,  
40 86.732, 86.736, 86.741, 86.744 and 86.748:

41 (1) "Facilitator" means a person that a service provider selects to conduct a resolution confer-  
42 ence.

43 (2) "Foreclosure avoidance measure" means an agreement between a beneficiary and a grantor  
44 that uses one or more of the following methods to modify an obligation that is secured by a resi-  
45 dential trust deed:

1 (a) The beneficiary defers or forbears from collecting one or more payments due on the obli-  
2 gation.

3 (b) The beneficiary modifies, temporarily or permanently, the payment terms or other terms of  
4 the obligation.

5 (c) The beneficiary accepts a deed in lieu of foreclosure from the grantor.

6 (d) The grantor conducts a short sale.

7 (e) The beneficiary provides the grantor with other assistance that enables the grantor to avoid  
8 a foreclosure.

9 (3) "Housing counselor" means a counselor employed by a nonprofit housing counseling agency  
10 that the Housing and Community Services Department or a successor state agency approves.

11 (4) "Resolution conference" means a meeting at which a grantor and a beneficiary attempt to  
12 negotiate and agree upon a foreclosure avoidance measure.

13 (5) "Service provider" means a person that the Attorney General appoints under ORS 86.741 to  
14 coordinate a program to implement the provisions of ORS 86.726, 86.729, 86.732 and 86.736.

15 **SECTION 5. (1) Sections 2 and 3 of this 2021 Act and the amendments to ORS 86.707 by**  
16 **section 4 of this 2021 Act become operative on the 91st day after the effective date of this**  
17 **2021 Act.**

18 **(2) The Director of the Housing and Community Services Department may adopt rules**  
19 **and take any other action before the operative date specified in subsection (1) of this section**  
20 **that is necessary to enable the director, on and after the operative date specified in sub-**  
21 **section (1) of this section, to undertake and exercise all of the duties, functions and powers**  
22 **conferred on the director by sections 2 and 3 of this 2021 Act and the amendments to ORS**  
23 **86.707 by section 4 of this 2021 Act.**

24 **SECTION 6. This 2021 Act being necessary for the immediate preservation of the public**  
25 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**  
26 **on its passage.**

27