

HOUSE AMENDMENTS TO HOUSE BILL 3389

By COMMITTEE ON RULES

June 14

1 On page 1 of the printed bill, line 2, after the second semicolon delete the rest of the line and
2 lines 3 and 4 and insert “amending ORS 86.705 and 86.735; and declaring an emergency.”.

3 Delete lines 6 through 21 and delete pages 2 through 14 and insert:

4 **“SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 86.705 to**
5 **86.795.**

6 **“SECTION 2. (1) As used in this section, ‘nonprofit entity’ means a nonprofit corporation**
7 **that is organized in this state and that is exempt from taxation under section 501(c)(3) of the**
8 **Internal Revenue Code, or a subsidiary or agent of the nonprofit corporation.**

9 **“(2) Except as provided in subsection (3) of this section, a beneficiary may not, as a**
10 **condition of offering or approving a short sale as an alternative to foreclosing a residential**
11 **trust deed, require a nonprofit entity that purchases property that is subject to the resi-**
12 **dential trust deed from a grantor in a short sale, or that purchases a note from the benefi-**
13 **ciary that secures the grantor’s obligation to the beneficiary by means of the residential**
14 **trust deed, to enter into an agreement with the beneficiary or the grantor that limits or bars**
15 **the grantor, after the short sale or the sale of the note, from owning or occupying the**
16 **property that is subject to the residential trust deed.**

17 **“(3) Subsection (2) of this section does not apply if:**

18 **“(a) The beneficiary does not receive notice before the short sale that the nonprofit en-**
19 **tity or the grantor intends for the grantor to continue after the short sale to own or occupy**
20 **the property that is the subject of the short sale;**

21 **“(b) The grantor does not allow the beneficiary reasonable access to the property that**
22 **is the subject of the short sale for the purpose of inspecting or appraising the property;**

23 **“(c) Offering or approving the short sale would require the beneficiary to breach a con-**
24 **tractual obligation to another person with respect to a residential trust deed that was re-**
25 **corded before the effective date of this 2013 Act; or**

26 **“(d) Offering or approving the short sale would require the beneficiary to breach a legal**
27 **obligation that is not based on a contract.**

28 **“SECTION 3. ORS 86.705, as amended by section 5, chapter 112, Oregon Laws 2012, is amended**
29 **to read:**

30 **“86.705. As used in ORS 86.705 to 86.795:**

31 **“(1) ‘Affordable housing covenant’ has the meaning given that term in ORS 456.270.**

32 **“(2) ‘Beneficiary’ means a person named or otherwise designated in a trust deed as the person**
33 **for whose benefit a trust deed is given, or the person’s successor in interest, and who is not the**
34 **trustee unless the beneficiary is qualified to be a trustee under ORS 86.790 (1)(d).**

35 **“(3) ‘Eligible covenant holder’ has the meaning given that term in ORS 456.270.**

1 “(4) ‘Grantor’ means the person that conveys an interest in real property by a trust deed as
2 security for the performance of an obligation.

3 “(5) ‘Residential trust deed’ means a trust deed on property upon which are situated four or
4 fewer residential units, one of which the grantor, the grantor’s spouse or the grantor’s minor or
5 dependent child occupies as a principal residence at the time [*a default that results in an action to*
6 *foreclose the obligation secured by the trust deed first occurs*] **the trust deed is recorded or, in the**
7 **case of a purchase money loan, one of which is intended to be the principal residence of the**
8 **grantor, the grantor’s spouse or the grantor’s minor or dependent child after the trust deed**
9 **is recorded.**

10 “(6) ‘Residential unit’ means an improvement designed for residential use.

11 “(7) ‘Trust deed’ means a deed executed in conformity with ORS 86.705 to 86.795 that conveys
12 an interest in real property to a trustee in trust to secure the performance of an obligation the
13 grantor or other person named in the deed owes to a beneficiary.

14 “(8) ‘Trustee’ means a person, other than the beneficiary, to whom a trust deed conveys an in-
15 terest in real property, or the person’s successor in interest, or an employee of the beneficiary, if
16 the employee is qualified to be a trustee under ORS 86.790.

17 “**SECTION 4.** ORS 86.735, as amended by section 6, chapter 112, Oregon Laws 2012, and section
18 10, chapter 304, Oregon Laws 2013 (Enrolled Senate Bill 558), is amended to read:

19 “86.735. A trustee may not foreclose a trust deed by advertisement and sale in the manner pro-
20 vided in ORS 86.740 to 86.755 unless:

21 “(1) The trust deed, any assignments of the trust deed by the trustee or the beneficiary and any
22 appointment of a successor trustee are recorded in the mortgage records in the counties in which
23 the property described in the deed is situated;

24 “(2) There is a default by the grantor or other person that owes an obligation, the performance
25 of which is secured by the trust deed, or by the grantor’s or other person’s successors in interest
26 with respect to a provision in the deed that authorizes sale in the event of default of the provision;

27 “(3) The trustee or beneficiary has filed for record in the county clerk’s office in each county
28 where the trust property, or some part of the trust property, is situated, a notice of default con-
29 taining the information required by ORS 86.745 and containing the trustee’s or beneficiary’s election
30 to sell the property to satisfy the obligation;

31 “(4) The beneficiary has filed for recording in the official records of the county or counties in
32 which the property that is subject to the residential trust deed is located:

33 “(a) A [*valid and unexpired*] certificate of compliance that a service provider issued to the ben-
34 efitary under section 5 [*of this 2013 Act*], **chapter 304, Oregon Laws 2013 (Enrolled Senate Bill**
35 **558), that is valid and unexpired at the time the notice of default is recorded; or**

36 “(b) A copy of the affidavit with which the beneficiary claimed, under section 2 (1)(b) [*of this*
37 *2013 Act*], **chapter 304, Oregon Laws 2013 (Enrolled Senate Bill 558)**, an exemption that has not
38 expired;

39 “(5) The beneficiary has complied with the provisions of section 4a, chapter 112, Oregon Laws
40 2012;

41 “(6) The grantor has not complied with the terms of any foreclosure avoidance measure upon
42 which the beneficiary and the grantor have agreed; and

43 “(7) An action has not been commenced to recover the debt or any part of the debt then re-
44 maining secured by the trust deed, or, if an action has been commenced, the action has been dis-
45 missed, except that:

