

Enrolled House Bill 3244

Sponsored by COMMITTEE ON BUSINESS AND LABOR

CHAPTER

AN ACT

Relating to statements concerning obligations borrowers owe to lenders under real estate loan agreements; amending ORS 86.157; and declaring an emergency.

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

SECTION 1. ORS 86.157 is amended to read:

86.157. (1) As used in this section:

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

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

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

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

[(d)] (e) "Residential property" means real property upon which is situated four or fewer improvements designed for residential use, one of which a borrower occupies as the borrower's residence.

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

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

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

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

(b) A borrower or an agent of the borrower may not rely on a payoff statement after a lender prepares and delivers an amended payoff statement to the borrower or borrower's agent. For purposes of this paragraph, a lender delivers an amended payoff statement to the borrower or borrower's agent if the lender provides the amended payoff statement by electronic means in accordance with ORS chapter 84, sends the amended payoff statement by United States mail postage prepaid and correctly addressed to the borrower or borrower's agent or sends the amended payoff statement by facsimile, provided that the borrower or borrower's agent receives the amended payoff statement before the borrower disburses funds for the purpose of satisfying the obligation in accordance with subsection (5) of this section.

(4) If an amount that a borrower owes under a real estate loan agreement, other than a real estate loan agreement for a construction loan, does not appear on a payoff statement or amended payoff statement and the borrower or an agent of the borrower satisfies the obligation set forth in the payoff statement in accordance with subsection (5) of this section, the lender may recover the amount only as an unsecured obligation or only by foreclosing a mortgage, trust deed or security agreement for any other property that secures the obligation.

(5) To satisfy an obligation set forth in a payoff statement or an amended payoff statement, a borrower must submit the amount shown in the payoff statement or amended payoff statement, instruct the lender to close any line of credit that is related to the obligation and request a certificate described in ORS 86.100 or a reconveyance under ORS 86.720 before any deadline, expiration date or maturity date specified in the payoff statement or amended payoff statement. A borrower that disburses funds to a lender in the amount shown in the payoff statement or an amended payoff statement has discharged a mortgage for the purpose of requesting a certificate under ORS 86.100 or performed the borrower's obligation for the purpose of requesting a reconveyance under ORS 86.720.

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

Passed by House April 30, 2015

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 4, 2015

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Peter Courtney, President of Senate

Received by Governor:

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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