

House Bill 3151

Sponsored by Representative SMITH DB

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**.

Prohibits lender in reverse mortgage transaction from enforcing requirement to sell or transfer residential real property that secures reverse mortgage loan upon death of borrower for 12-month period following expiration of emergency period if relatives of deceased borrower occupy residential real property.

Sunsets one year following expiration of emergency period.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to reverse mortgage loan agreements; and declaring an emergency.

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

4 **SECTION 1. (1) The Legislative Assembly finds and declares that:**

5 (a) **The provisions of this section might affect the terms and conditions of certain con-**
6 **tracts into which residents of this state have entered.**

7 (b) **The effects of the provisions of this section are not substantial because the provisions**
8 **have a limited scope and duration and are necessary to protect the public health, safety and**
9 **welfare. For these reasons the provisions do not undermine a contractual bargain, interfere**
10 **with a party's reasonable expectations or prevent a party from safeguarding or reinstating**
11 **the party's rights.**

12 (c) **Even if a provision of this section has the effect of undermining a contractual bar-**
13 **gain, interfering with a party's reasonable expectations or preventing a party from safe-**
14 **guarding or reinstating the party's rights, the provision is appropriate and reasonable as a**
15 **means by which to implement the significant and legitimate public purpose of responding to**
16 **the COVID-19 pandemic emergency that began on March 8, 2020, and has continued to date.**

17 (2) **As used in this section:**

18 (a) **"Borrower" means a person who has agreed to repay a reverse mortgage loan from**
19 **the proceeds of a sale or transfer of residential real property that secures the loan.**

20 (b) **"Emergency period" means the period during which the last of any executive orders**
21 **of the Governor that declare an emergency related to the COVID-19 pandemic remain in ef-**
22 **fect.**

23 (c) **"Relatives of a deceased borrower" means a deceased borrower's surviving spouse,**
24 **parents, grandparents, children or grandchildren by consanguinity or marriage.**

25 (d) **"Reverse mortgage loan" means a residential mortgage transaction in which a lender**
26 **provides loan proceeds to a borrower in a lump sum or in monthly installments with the**
27 **expectation that the borrower will repay the loan from the proceeds of a sale or transfer of**
28 **the real property that secures the loan.**

29 (3)(a) **Notwithstanding a provision of a loan contract that requires a sale or transfer of**

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 residential real property to repay the outstanding balance of a reverse mortgage loan upon
2 the death of the borrower, relatives of a deceased borrower who occupy the residential real
3 property that secures the reverse mortgage loan may continue to occupy the residential real
4 property for a period of 12 months following the date on which the emergency period expires.
5 During the emergency period and during the 12-month period following the expiration of the
6 emergency period, a lender may not declare a default, accelerate the loan, bring an action
7 to recover the balance of the loan, or an action to evict relatives of a deceased borrower who
8 occupy the residential real property that secures the loan, or seek by other means to enforce
9 terms of the reverse mortgage loan agreement that require repayment upon the borrower's
10 death.

11 (b) Except as provided in paragraph (a) of this subsection:

12 (A) All other terms of the reverse mortgage loan agreement remain in effect during the
13 emergency period and the 12-month period described in paragraph (a) of this subsection; and

14 (B) A lender may enforce the terms of the reverse mortgage loan agreement other than
15 the terms described in paragraph (a) of this subsection.

16 (4) A lender's violation of subsection (3) of this section is an unlawful practice under ORS
17 646.608 for which a relative of the borrower may bring an action under ORS 646.638.
18 Notwithstanding any limitation specified in ORS 646.605 to 646.652, the relative of the bor-
19 rower must bring any action within the earlier of:

20 (a) One year after the violation occurred; or

21 (b) One year after the expiration of the 12-month period described in subsection (3)(a)
22 of this section.

23 **SECTION 2.** Section 1 of this 2021 Act is repealed one year after the expiration of the
24 emergency period as defined in section 1 of this 2021 Act.

25 **SECTION 3.** This 2021 Act being necessary for the immediate preservation of the public
26 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
27 on its passage.
28