

**A-Engrossed**  
**Senate Bill 252**

Ordered by the Senate April 2  
Including Senate Amendments dated April 2

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)

**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.

Exempts Department of Veterans' Affairs from requirement to request or participate in resolution conference in connection with foreclosure of residential trust deed when department is acting in capacity as beneficiary of loan made by department pursuant to statute.

*[Exempts department from requirement to give notice of ineligibility for foreclosure avoidance measure or of failure to comply with terms of foreclosure avoidance measure when department is acting in capacity as beneficiary of loan made by department pursuant to statute.]*

**A BILL FOR AN ACT**

1  
2 Relating to exemption of Department of Veterans' Affairs from certain foreclosure practices;  
3 amending ORS 86.726.

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

5 **SECTION 1.** ORS 86.726 is amended to read:

6 86.726. (1)(a) Except as provided in paragraph (b) of this subsection **and subsection (5) of this**  
7 **section**, a beneficiary that intends to foreclose a residential trust deed shall first request a resolu-  
8 tion conference with the grantor before the beneficiary or the trustee files a notice of default under  
9 ORS 86.752 or before the beneficiary brings suit under ORS 88.010.

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

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

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

25 (B) An exemption under subparagraph (A) of this paragraph expires at the end of the calendar

**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 year in which the beneficiary claims the exemption.

2 (c) **Except as provided in subsection (5) of this section**, a beneficiary that claims an ex-  
3emption under this subsection is not exempt from the requirements set forth in ORS 86.748.

4 (2) The beneficiary shall request a resolution conference through the service provider. The  
5 beneficiary shall submit the request to the service provider electronically, by facsimile or by mail  
6 and shall submit a processing fee in an amount and in a manner that the Attorney General specifies  
7 by rule. The service provider shall pay to the Attorney General, for deposit into the Foreclosure  
8 Avoidance Fund established under ORS 86.744, moneys the service provider receives from the ben-  
9eficiary under this subsection. The beneficiary's request under this subsection must identify the  
10 residential trust deed that the beneficiary intends to foreclose and list the name, title, address,  
11 telephone number and other available contact information for:

12 (a) The beneficiary;

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

14 (c) Any person other than a person identified in paragraph (a) or (b) of this subsection that will  
15 receive, on the beneficiary's behalf, notices or other communications related to the resolution con-  
16ference; and

17 (d) The grantor.

18 (3)(a) If a beneficiary does not request a resolution conference under subsection (1) of this sec-  
19tion, a grantor may request a resolution conference with the beneficiary if:

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

22 (B) The grantor first obtains from a housing counselor a certification in writing that the grantor  
23 is more than 30 days in default on the obligation that the residential trust deed secures or, if the  
24 grantor is not in default, that the grantor has a financial hardship that the housing counselor be-  
25lieves may qualify the grantor for a foreclosure avoidance measure.

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

31 (c) A beneficiary that receives a notice from a service provider after the service provider re-  
32ceives a request from a grantor under paragraph (b) of this subsection is subject to the requirements  
33 set forth in this section and ORS 86.729, 86.732, 86.736 and 86.748.

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

36 (4) A beneficiary that submitted an affidavit in accordance with subsection (1)(b) of this section  
37 may, without waiving the exemption the beneficiary claimed in the affidavit, request a resolution  
38 conference with a grantor. The beneficiary shall submit a request under this subsection in accord-  
39ance with the requirements set forth in subsection (2) of this section, except that submitting the  
40 request does not require a processing fee.

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

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