

<b>OLTA Legislative Committee 2013 Bills Enacted - Sorted by Bill Number</b>			
As of	Asterisk (*) - See Addendum - Summary of Bills Affecting Real Property Foreclosures		
01-Sep-13	Status: SG:Signed by Governor		
Bill categories: Adverse Possession; Affordable Housing; CCRs & HOAs; Civil Actions; Condemnation; Conservators; Corporations & Bus Entities; Decedents' Estates; Domestic Relations; Escrow Agents; Estates in Land; Exchange Facilitators; Judgments & Statutory Liens; Land Devel, Use & Regul; Licensing; Mortgages & Trust Deeds; Notaries; Powers of Attorney; Public Bodies; Privacy; RP Tax & Assessment; Recording; Taxation; Title Insurance; Trusts			
<b>Bill</b>	<b>Description</b>	<b>Category</b>	<b>Notes/Status</b>
HB 2031	Designates Dept of State Lands to act for state in transactions concerning mineral and geothermal resource rights in low-potential resource lands.	Public Bodies	SG; Ch 256; eff 6/4/2013
HB 2046	Addresses claims of Dept of Veterans' Affairs in probate proceedings.	Mortgages & Trust Deeds	SG; Ch 190; eff 1/1/2014
HB 2089A	Specifies that Or Health Authority or Dept of Human Services, as prescribed by rule, should receive small estate affidavit.	Decedents' Estates	SG; Ch 14; Eff 3/21/13
HB 2093B	Makes changes to laws related to vital statistics to conform with 2011 revisions to Model State Vital Statistics Act; section 34 bars recording of a death certificate if it includes medical information related to the cause of death	Recording	SG; Ch 366; eff 6/13/2013; operative 1/1/2014
HB 2227A	Addresses certain property tax exemptions.	RP Tax & Assessment	SG; Ch 193; eff 10/6/2013
HB 2239	Requires certain entities previously exempt from license requirement to obtain mortgage loan licenses from DCBS.	Licensing	SG; Ch 268; eff 1/1/2014
HB 2417A	Increases from \$15 to \$20 the recording fee designated for housing-related programs of the Oregon Housing and Community Services Dept; ORS 205.323(1)(c).	Recording	SG; Ch 646; eff 1/1/2014
HB 2489A	Suspends indefinitely prohibition on senior & disabled citizen tax deferrals for certain homesteads pledged as security for reverse mortgages.	RP Tax & Assessment	SG; Ch 31; eff 10/6/2013
HB 2510B	Makes changes to senior and disabled citizens tax deferral program.	RP Tax & Assessment	SG; Ch 494; eff 10/6/2013
HB 2524B	Limits exemption from construction contractor licensing requirement for surety companies and commercial lending institutions.	Licensing	SG; Ch 378; eff 1/1/2014
HB 2528	Removes cap on amount in real estate loan agrt that is subject to requirement to pay interest to borrower on funds lender collects for taxes and insurance.	Mortgages & Trust Deeds	SG; Ch 200; eff 1/1/2014
HB 2565	Gives judgment lien awarded to custodian of law practice priority over certain other creditors and security interests.	Judgments & Statutory Liens	SG; Ch 3; eff 3/11/2013

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HB 2568 *	Provides that, in amended notice of sale, trustee must describe only defaults that existed on date stay was terminated; amends procedure for postponements.	Mortgages & Trust Deeds	SG; Ch 76; eff 1/1/2014
HB 2569A *	Allows law practices to serve as trustees of trust deeds.	Mortgages & Trust Deeds	SG; Ch 125; eff 1/1/2014
HB 2571A	Clarifies that spousal support payments terminate on death of either party.	Domestic Relations	SG; Ch 126; eff 1/1/2014
HB 2573A	Provides that engaging in business of, or acting in capacity of, immigration consultant is unlawful and subject to Unlawful Trade Practices Act, unless federal law authorizes person to act as immigration consultant or person is active member of Or St Bar.	Licensing	SG; Ch 77, eff 1/1/2014
HB 2639B	Directs Housing and Community Services Dept to develop Housing Choice Landlord Guarantee Program to mitigate damages to dwelling units caused by tenants receiving tenant-based assistance under federal Housing Choice Voucher Program; includes other provisions.	Land Devel, Use & Regul	SG; Ch 740; eff 1/1/2014
HB 2662A *	Prohibits owner of foreclosed residential real property from neglecting property during vacancy; authorizes lien for remediation costs.	Mortgages & Trust Deeds	SG; Ch 317; eff 6/6/2013
HB 2822B *	Requires publication of notice of execution sale of real property by Internet posting and by publication in newspaper of general circulation; applies to sheriff sales for which sheriff receives instructions on or after 8/1/2013.	Judgments & Statutory Liens	SG; Ch 464; eff 6/24/2013
HB 2834	Enacts Revised Uniform Law on Notarial Acts.	Notaries	SG; Ch 219; eff 5/23/2013
HB 2856A	Exempts from mortgage loan originator licensing requirements individual who, as seller during any 12-month period, offers or negotiates terms for not more than three residential mortgage loans as security for purchase money obligations, unless US Dept of HUD determines otherwise.	Mortgages & Trust Deeds	SG; Ch 281; eff 6/4/2013; operative 9/3/2013
HB 2929B *	Creates procedure for trust deed trustee to rescind a trustee's sale within a 10 day period, with certain requirements; requires certain trustees to maintain registered agent and registered office.	Mortgages & Trust Deeds	SG; Ch 465; eff 1/1/2014
HB 3067A	Establishes procedure for Multnomah County to transfer "Area 93" to Washington County.	Public Bodies	SG. Ch 326; eff 6/6/2013
HB 3172A	Modifies residential disclosure law related to septic systems; expands sewage system section.	Land Devel, Use & Regul	SG; Ch 435; eff 1/1/2014
HB 3301C	Authorizes owner of lot in planned community or unit in condo to install & use electric vehicle charging station for personal use.	Land Devel, Use & Regul	SG; Ch 438; eff 1/1/2014

Bill	Description	Category	Notes/Status
HB 3389A *	Prohibits certain conditions on short sale with non-profit purchaser; revises definition of "residential trust deed"; specifies that certificate of compliance must be valid and unexpired at commencement of non-judicial foreclosure.	Mortgages & Trust Deeds	SG; Ch 625; eff 7/19/2013
HB 3489A	Limits escrow agent's exemption from licensing requirements in instances where escrow agent provides debt management services, money transmission services or services to debt management service providers that must be licensed.	Escrow Agents	SG; Ch 444; eff 6/18/2013
HB 3495A	Re-enacts exchange facilitator bill of 2009; cancels sunset previously set for 1/2/2014	Exchange Facilitators	SG; Ch 392; eff 1/1/2014
SB 0023	Modifies provisions related to regulation of real estate agents.	Licensing	SG; Ch 145; eff 5/16/2013
SB 0034A	Limits to four the number of loans eligible individual may receive or assume from Dept of Veterans' Affairs.	Mortgages & Trust Deeds	SG; Ch 227; eff 5/23/2013
SB 0035	Modifies limit on amount of home and farm loans made by Dept of Veterans' Affairs.	Mortgages & Trust Deeds	SG; Ch 228; eff 5/23/2013
SB 0046A	Modifies statute of limitations for action against person registered to practice architecture, landscape architecture or engineering arising out of improvement of real property.	Civil Actions	SG; Ch 469; eff 1/1/2014
SB 0204	Provides that certain limitations regarding real property sales by the state do not apply to certain real property acquired or sold by Housing & Community Services Dept.	Land Devel, Use & Regul	SG; Ch 167; eff 5/16/2013
SB 0396A	Allows Oregon resident filing for bankruptcy to claim either (a) exemptions established by federal law or (b) exemptions established by state law.	Judgments & Statutory Liens	SG; Ch 597; eff 7/1/2013
SB 0406A	Expands options for name after marriage or after entering into registered domestic partnership.	Domestic Relations	SG; Ch 341; eff 6/6/2013
SB 0414A	Permits DCBS to seek restitution on behalf of consumer that suffered actual damages as result of insurer's violation of Insurance Code or breach of insurance contract or policy.	Title Insurance	SG; Ch 618; eff 7/3/2013; operative 1/1/2014
SB 0465A	Permits local government to record a notice of designation of residential improvements with substantial flood damage; creates failure-to-disclose liability for seller with exposure for treble damages.	Land Devel, Use & Regul	SG; Ch 303; eff 6/4/2013
SB 0558A *	Replaces foreclosure mediation requirements with resolution conference requirements; makes significant revisions to SB 1552 of 2012.	Mortgages & Trust Deeds	SG; Ch 304; eff 6/4/2013; operative 8/4/2013
SB 0592A	Revises Oregon Uniform Trust Code.	Trusts	SG; Ch 529; eff 6/26/2013

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NEW LEGISLATION – 2013  
Oregon Land Title Association  
Summary of Bills Affecting Real Property Foreclosures

(A)

**HB 2568 (Chapter 76, Oregon Laws 2013)**

Effective January 1, 2014

*Affects a non-judicial trust deed foreclosure when a stay of the foreclosure – usually a stay imposed by a bankruptcy filing – has been terminated.*

(1) Provides that in the amended notice of sale, given after a stay is lifted, the trustee must describe the defaults existing at termination of the stay, if the defaults in the original notice of sale were cured in part during the stay or if additional defaults occurred during the stay.

(2) Reduces from 20 days to 15 days the number of days that must elapse between when amended notice is given and the amended date of sale.

(3) Provides that after release from a stay, the trustee may postpone the sale for one or more periods that total not more than the greater of (a) 60 days or (b) the portion of the 180 day postponement period (permitted in the absence of a stay) that remained on the day before the stay began.

(4) Provides that, when written notice of a postponement is required, the postponement notice may be given by personal service or by mailing by both first class mail and certified mail with return receipt requested to any person to whom notice of the sale was given.

(B)

**HB 2569 (Chapter 125, Oregon Laws 2013)**

Effective January 1, 2014

*Affects trust deed trustees.*

(1) Provides that a “law practice” may be a trust deed trustee, a “law practice” being a professional corporation, a partnership, a limited liability partnership, a limited liability company or a sole proprietorship engaged in the practice of law in Oregon.

(2) Provides that when a law practice is a trustee, any active Oregon lawyer at the law practice may sign Trust Deed Act documents on behalf of the law practice, provided that the document (i) identifies the lawyer by name and Oregon State Bar number and (ii) states that the trustee has authorized the lawyer to sign on the trustee’s behalf.

(3) Provides that, when the trustee is an individual lawyer at a law practice, the trustee may appoint another lawyer at the law practice to sign on behalf of the individual lawyer trustee, provided that the appointment document (i) identifies the lawyer by name and Oregon State Bar number and (ii) states that the trustee has authorized the lawyer to sign on the trustee’s behalf.

(C)  
HB 2662 (Chapter 317, Oregon Laws 2013)  
Effective June 6, 2013

*Affects foreclosed residential real property.*

(1) Applies to an owner who acquires through a foreclosure residential real property as defined in ORS 18.901. "Owner" is "a person, other than a local government, that forecloses a trust deed" non-judicially or judicially. *Note: "Residential real property" is a broader category than the category of real property brought within the definition of a "residential trust deed," as defined for the Trust Deed Act in ORS 86.705.*

(2) Requires that the owner not neglect the property while it is vacant.

(3) Requires that the owner provide its name or its agent's name, phone number and other contact information to the property's neighborhood association or a local government official designated to receive the contact information. *Note: This requirement is not limited to vacant property.*

(4) Requires that the owner post a durable notice with a phone number in a conspicuous location on the property for reporting a condition of neglect to the owner or the local government and that the notice be replaced if removed during a period of vacancy.

(5) Requires that the owner or owner's agent identify the owner to the local government and maintain contact information when the property is vacant.

(6) Establishes a protocol through which the local government may find a violation of neglect and may demand remediation, but must provide an opportunity for contesting the finding, and, if the owner fails to remediate in accordance with the local government's findings and specifications, the local government may remediate and has a lien for the costs it incurs, which lien attaches upon recording a claim of lien and which lien has a priority equal to a tax lien.

(D)  
HB 2822 (Chapter 464, Oregon Laws 2013)  
Effective June 24, 2013

*Affects execution sales of real property.*

(1) Requires that, before conducting an execution sale of real property, the sheriff

(a) post notice of the execution sale to a website established under ORS 18.926 for at least 28 days and

(b) publish notice of the sale in a qualified newspaper once a week for four weeks.

(2) Requires that the notices include

(a) the names of the parties subject to the writ of execution,

(b) the street address of the property or, if there is no street address, the tax lot number of the property, and

(c) the date, time and place of the execution sale.



(3) Requires that the website notice also include the legal description of the property and a warning whose text is specified.

(4) Requires that the newspaper notice include instructions for locating the information posted to the website.

(5) Requires that the judgment creditor supply the sheriff with all of the information required for the notices.

(6) Specifies that the revised requirements apply only to execution sales for which the sheriff receives instructions on or after August 1, 2013.

(E)

**HB 2929 (Chapter 465, Oregon Laws 2013)**

Effective January 1, 2014

*Affects non-judicial trust deed foreclosures.*

(1) Requires that a trust deed trustee who is an out-of-state business entity must register with the Oregon Secretary of State, unless the entity is a title insurer with a certificate of authority from the Department of Consumer and Business Services.

(2) Permits the trustee to rescind a sale and void a trustee's deed in three circumstances, using a specified procedure.

(3) Applies:

(a) if the trustee asserts that a bona fide error occurred in setting or advertising the opening bid amount, in providing a correct legal description for the property being sold, or in complying with a requirement or procedure imposed by law;

(b) if the trust deed grantor and beneficiary agreed to a foreclosure avoidance measure that would postpone or discontinue the foreclosure; or

(c) if the beneficiary has accepted funds to reinstate the loan, even if the beneficiary has no legal duty to reinstate.

(4) Establishes a rescission procedure under which the trustee:

(a) must rescind within 10 calendar days after the date of sale,

(b) must provide (by personal service or by mail) notice of the rescission within 10 calendar days after the date of sale to any person to whom notice of sale was given,

(c) must display in the notice of rescission the date on which the trustee mailed, served or otherwise delivered the notice;

(d) must state that, and explain why, the trustee rescinded the sale and voided any trustee's deed;

(e) must refund to the purchaser the amount if paid within three calendar days after the date the trustee gave notice of rescission; and,

(f) within 21 days after the date of the sale, must record an affidavit of the rescission that identifies the trust deed that was subject to the rescinded sale and voided trustee's deed.

(5) Specifies that a trustee may use the rescission procedure for a trustee's sale occurring on or after January 1, 2014, if the procedure is permitted.

*Note:* The rescission procedures of HB 2929 may conflict with provisions in ORS 86.722 for a form to correct the deed and mortgage records when a trustee's deed has been recorded erroneously. To the extent that the two statutes conflict, the later one, HB 2929's revisions to ORS 86.755, will control.

**(F)**  
**HB 3389 (Chapter 625, Oregon Laws 2013)**  
Effective July 19, 2013

*Affects short sales and trust deed foreclosures.*

(1) Prohibits, with some exceptions, a beneficiary of a residential trust deed from imposing, in a short sale of the property to a non-profit entity, or in a sale of the note to a non-profit entity, any condition that limits or bars the grantor from owning or occupying the property after the short sale or the sale of the note.

(2) Revises requirement for a certificate of compliance with provisions for a foreclosure avoidance resolution conference, so a non-judicial sale may proceed if the certificate of compliance is valid and unexpired at recording of the notice of default (rather than at date of sale).

(3) Revises the definition of residential trust deed, leaving in place the requirement that the property must have four or fewer residential units, one of which is occupied as a principal residence by the grantor, the grantor's spouse, or the grantor's minor or dependent child, but changing the condition of occupancy so it is determined as of the trust deed's recording date, except for a purchase money trust deed, for which one unit must be intended as the principal residence after the trust deed is recorded.

(4) Is silent on whether act applies to pending and future trust deed foreclosures, only to foreclosures commenced on or after the effective date, or only to trust deeds entered into on or after the effective date.

**(G)**  
**SB 558 (Chapter 304, Oregon Laws 2013)**  
Effective June 4, 2013; Operative August 4, 2013

*Recharacterizes the foreclosure mediation program established by Chapter 112 [S.B. 1552], Oregon Laws 2012, as a foreclosure resolution program and revises the 2012 act.*

(1) Requires that the beneficiary of a residential trust deed request, before a judicial or non-judicial foreclosure, a resolution conference with the grantor for purposes of negotiating a foreclosure avoidance measure, unless the beneficiary is eligible to claim exemption from the requirement.

(2) Changes exemption criteria and requires submission of affidavit of exemption to Attorney General.

(3) Bars a non-exempt beneficiary from recording a notice of default or filing a foreclosure action until after requesting a resolution conference. *Note: Ch. 444 [HB 3389], Or. Laws 2013, also requires, at time of recording a notice of default, a valid and unexpired certificate of compliance (see #8 below) and requires the recording of the certificate (see #10 below).*

(4) Revises provisions for a service provider's administration of a foreclosure avoidance resolution program that uses "facilitators," instead of "mediators."

(5) Specifies manner in which the beneficiary must request a resolution conference.

(6) Permits the grantor to request a resolution conference under certain circumstances.

(7) Specifies documents that the beneficiary and the grantor must provide and specifies the timing and procedure for, and duties of, the beneficiary and the grantor with respect to a resolution conference.

(8) Provides for the beneficiary to receive a certificate of compliance after meeting its obligations for a resolution conference, and specifies that a certificate of compliance expires one year after its date of issue.

(9) Requires that the beneficiary mail a "4a" notice to the grantor if the beneficiary determines that the grantor is not eligible for a foreclosure avoidance measure or has not complied with terms of a foreclosure avoidance measure. Requires that the beneficiary mail the "4a" notice within 10 days of making the determination and mail a copy to the Dept. of Justice. Requires recording of an affidavit of compliance with the "4a" notice requirement. Specifies that the exemption from requesting a resolution conference does not apply to the "4a" notice requirement and that the "4a" notice requirement applies to any residential trust deed. *Note: "4a" is a reference to Section 4a of Ch. 112 [SB 1552], Or. Laws 2012.*

(10) Requires, as additional conditions for a non-judicial foreclosure of a residential trust deed, (a) that, if the beneficiary and grantor have agreed to a foreclosure avoidance measure, the grantor has not complied with the agreement's terms; (b) that the trust deed beneficiary give the grantor a "4a" notice if required and record, at least 5 days before the sale, an affidavit of compliance; and (c) that the beneficiary record either (i) a valid and unexpired certificate of compliance issued by the service provider or (ii) a copy of the affidavit with which the beneficiary claims an unexpired exemption.

(11) Requires that a complaint filed to foreclose a residential trust deed of a non-exempt beneficiary include as an attachment one of the following:

(a) a true copy of a valid and unexpired certificate of compliance issued by the service provider;

(b) a true copy of the affidavit with which the beneficiary claims an unexpired exemption; or

(c) a true copy of the service provider's notice and explanation that it will not issue a certificate of compliance.

(12) Permits the court, on its motion or in response to a defendant's motion, to dismiss the action without prejudice or to stay the proceeding

- (a) if the beneficiary fails to file (i) the certificate of compliance or (ii) the affidavit of exemption, or
- (b) if the beneficiary files the service provider's notice and explanation of no certificate of compliance.

(13) Permits the court to lift its stay if the beneficiary belatedly files the certificate of compliance or the affidavit of exemption.

(14) Establishes that a person engages in an unlawful practice if, in the course of the person's business, vocation or occupation, the person is a beneficiary that violates the requirements for

- (a) requesting or participating in a resolution conference,
- (b) paying the applicable charge and submitting required identifying and contact information,
- (c) submitting the required documentation for a resolution conference
- (d) sending an appropriate representative to the conference, or
- (e) signing a written document setting forth the terms of a foreclosure avoidance measure.

(15) Any such unlawful practice is subject to an enforcement action under ORS 646.632 by the state attorney general or by the district attorney in the county where the unlawful practice is alleged to have occurred.

(16) Becomes operative on August 4, 2013, thereby applying to

- (a) a request for a resolution conference that a beneficiary or grantor submits on or after that date,
- (b) a notice of sale that a trustee, a beneficiary or the agent of either sends on or after that date, and
- (c) a suit to foreclosure a residential trust deed that commences on or after that date.

*Prepared by Cleve Abbe  
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October 28, 2013*