

Summary of 2013 Oregon Legislature Senate Bills

HB 2093: Chapter 366 Oregon Laws 2013; Effective June 13, 2013 (Recordation of Death Certificates)

Substantially revises vital statistics laws to reflect 2011 revisions to the Model State Vital Statistics Act. Appropriates fees collected under certain provisions of the law to the Oregon Health Authority to cover administration costs.

Section 34 of the law states that a document recording a death (i.e., a death certificate) filed in conjunction with owning or having a claim or interest in land may not include medical information related to the cause of death. Interestingly, Section 36(8) of the law prohibits the issuance of certified copies of death records containing the cause of death except as follows: (i) upon the request of an immediate family member; (ii) when a documented need for the cause of death to establish a legal right has been demonstrated; or (iii) upon an order from a court of competent jurisdiction.

HB 2131: Chapter 19 Oregon Laws 2013; Effective April 2, 2013; (Confidentiality of pest control reports)

Requires a local public health authority, local health district and the Oregon Health Authority to maintain as confidential certain information reported by pest control operators, and provides that the information is not subject to disclosure under ORS 192.410 to 192.505 (public records law request). The bill defines a bedbug as a “member of the Cimicidae [flat-bodied wingless blood sucking bugs] family of parasitic insects.” The information that must be kept confidential includes the following:

1. The location of a site where a pesticide intended to prevent, destroy, repel or mitigate an infestation of bedbugs has been applied or is to be applied;
2. The identity of any person who owns, rents or leases property described above; and
3. Any information describing or pertaining to the infestation or suspected infestation.

The bill does not prevent a public health authority from publishing statistical compilations or reports relating to reportable disease investigations if the compilations or reports do not identify individual cases or sources of information.

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HB 2227: Chapter 193 Oregon Laws 2013; Effective 90 days after adjournment (Elimination of certain property tax exemptions)

Eliminates certain exemptions from ad valorem real property taxes beginning July 2017. These exemptions include sports and convention facilities (ORS 263.290), federal property in the hands of a contractor under defense or space contract (ORS 307.065), railroad property temporarily used for alternate public transportation (ORS 307.205), property of nonprofit mutual or cooperative telephone association (ORS 307.220), telephonic properties of persons not engaged in public telephone service (ORS 307.230-.240), and aircraft undergoing major work (ORS 308.559).

Modifies some requirements for qualification and filing for other exemptions, most notably "vertical housing developments." Requires applicant to obtain verifications required for farm labor camp and child care facility exemption programs. Adds application requirement to exemption for property held or operated by housing authority.

HB 2239: Chapter 268 Oregon Laws 2013; Effective January 1, 2014 (Mortgage Banker and Mortgage Broker qualifications)

Amends ORS 86A.100 to add further qualifications for financial holding companies and bank holding companies to be excluded from the definitions of "Mortgage Banker" and "Mortgage Broker." Specifically, such holding companies will only be excluded from these definitions (and thus exempt from licensing) if the financial holding company or bank holding company does "not do more than control a subsidiary or affiliate, as described in 12 U.S.C. 1841, and does not engage in the business of a mortgage banker or mortgage broker."

HB 2349: Chapter 426 Oregon Laws 2013; Effective 90 days after adjournment (Extension of property tax exemption in distressed residential areas)

Extends the sunset provision applicable to property tax exemption granted to structures built for the purpose of providing single family dwelling units for owner occupancy in distressed residential areas (ORS 307.651-687) from 2015 to 2025. The program has been expanded to allow its future application to all such properties located within cities adopting ordinances allowing this property tax exemption. This exemption, intended to encourage home ownership for low and moderate income families, has been made subject to limits that require cooperation between some or all taxing entities affected by the exemption. Because of the expansion of the program beyond its former application to only distressed areas subject to probable revitalization, all future exemptions granted under this expanded program can only exceed forty percent (40%) of the applicable tax levy if the affected county also adopts the program and only exceed fifty-one percent (51%) of the levy if intergovernmental agreements between all the affected taxing entities are in place. With the expansion, special design district requirements have been dropped but a

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city's ability to adopt design requirements and control extensions of public benefits beyond the period of exemption remain.

HB 2417: Chapter _____ Oregon Laws 2013; As of 7/28/13, Chapter number not yet assigned
(Increased recording fees)

Increases certain recording and filing fees charged by county clerks by an amount of \$5 in connection with documents and instruments recorded or filed pursuant to ORS 205.130 (which includes deeds, mortgages, liens, and powers of attorney). Those fees will be deposited into the applicable County Assessment and Taxation Fund created under ORS 294.187, and 25% of the moneys deposited will be dedicated to assistance to veterans who are homeless or at risk of becoming homeless.

HB 2489: Chapter 31 Oregon Laws 2013; Effective 90 days after adjournment;
(Homestead—Property Tax Deferral Notice of Liability)

Provides that taxpayer's failure to respond to Department of Revenue ("DOR") notice requiring taxpayer to certify eligibility renders the homestead property ineligible only for the next following property tax year and does not preclude qualifying for deferral in subsequent tax years for which taxpayer files timely application. After conveyance of homestead to transferee who is ineligible to claim deferral, DOR will issue notice of liability by mail. Within 30 days, the transferee must pay the deferred amounts or object to the DOR's notice of liability. If payment or objection is not received by DOR within 30 days following notice of liability, the notice becomes final. An objecting transferee may request a conference. After conference, or if no conference is requested by the objecting transferee, DOR will send a letter affirming, canceling, or adjusting the notice of liability; any amounts due must be paid within 90 days or appeal taken to tax court. DOR can require jointly and severally liable transferees to appear for a joint determination of liability.

HB 2510: Chapter 494 Oregon Laws 2013; Effective 90 days after adjournment;
Homestead—Property Tax Deferral Reactivation

Provides that prior 2011 amendments to ORS 311.700 relating to reverse mortgages do not apply to homestead that had been granted deferral for any property tax years beginning before July 1, 2011. Department of Revenue ("DOR") will send notice to all taxpayers with inactive deferral accounts advising that their inactive accounts may be reactivated by filing deferral claim for property tax years beginning on or after July 1, 2014. DOR must create and maintain a list of homesteads determined to be eligible for reactivation; homesteads will appear in the order in which owners filed claims. Determination of eligibility reactivates the deferral beginning with the first property tax year after the determination and continues for all subsequent property tax years for which the property and owners remain eligible. Note, however, that the

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cumulative maximum number of homesteads appearing on the reactivation list is 700 for the property tax year beginning July 1, 2014. The cumulative maximum increases by 5% each year. ORS 311.670(2)(a) applies to reactivated homestead if, as of April 15 of the year in which the deferral claim is filed, the taxpayers have continuously owned and lived in the homestead less than seven years. [ORS 311.670(2)(a) provides that "a homestead is not eligible for deferral ... if the real market value of the homestead entered on the last certified assessment and tax roll is equal to or greater than 100 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least five years but less than seven years."

HB 2524: Chapter 378 Oregon Laws 2013; Effective January 1, 2014 (CCB Licensure)

Amends ORS 701.010 relating to the exemptions from licensure with the CCB, including increasing the aggregate price of work under a certain contract that is exempt from licensing from \$500 to \$1000. Also broadens the exemption for commercial lending institutions and surety companies to holding companies and subsidiaries if such companies have a legal or security interest in a property and are having work performed by licensed contractors.

HB 2528: Chapter 200 Oregon Laws 2013; Effective date January 1, 2014 (Definition of "real estate loan")

Amends ORS 86.205 to remove the requirement that a loan must be \$100,000 or less to qualify as a "real estate loan" for the purposes of ORS 86.205 to 86.275 such that definition is simply a loan on residential property occupied by the borrower and secured by such property.

HB 2540: Chapter 251, Oregon Laws 2013; Effective January 1, 2014; (CCB Licensure)

Permits the Construction Contractors Board ("CCB") to revoke, suspend, or refuse to issue a license to persons found by the CCB to have engaged in dishonesty by enabling the evasion of obligations relating to tax laws, social security contributions, unemployment taxes, workers' compensation premiums, wage and hour laws, occupational safety and health laws, child support, alimony, a judgment, a garnishment or other laws or debts identified by the CCB by rule.

Also amends portions of the Construction Contractors Licensing Act (ORS 701 et. seq.) to expand the definition of "construction debt" to include amounts owed to employees of a construction contracting business for unpaid wages.

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HB 2565: Chapter 3 Oregon Laws 2013; Effective date March 11, 2013 (Priority of certain judgment liens)

Among other things, ORS Chapter 9 deals with regulation of the practice of law. This new law makes two changes to ORS Chapter 9.

1. The law previously required notice by registered or certified mail of delinquency of membership fees. The new law permits the executive director of the Oregon State Bar to send the notices to members by electronic mail.

2. Changes the priority of a judgment lien awarded as compensation and expenses to an attorney who acts as a custodian of a nonperforming attorney's practice under ORS Section 9.705 through 9.755. The judgment lien awarded to the custodian of the practice now has priority over all general unsecured creditors, non-possessory liens and security interests that were unperfected on the date the court assumed jurisdiction. Previously, the judgment lien was subordinate to non-possessory liens and security interests created prior to the judgment taking affect.

HB 2568: Chapter 76 Oregon Laws 2013; Effective January 1, 2014; (Nonjudicial Foreclosure)

Applies to all issuances of notices of sale, amended notices of sale, and notices of postponed trustee's sale for foreclosure sales conducted pursuant to nonjudicial foreclosures.

For notices of sale, the law removes various references to "conducting the sale," where that phrase modified trustee, attorney or an agent, to clarify that the party doing the act addressed in each such provision of the law does not have to be the same party who conducts the trustee's sale.

For notices of postponed trustee's sale, the law allows the notice delivery options applicable to the original notice of sale in lieu of requiring personal service of a postponement of sale notice. This includes the provision that the notice of postponed trustee's sale may be "mailed by both first class and certified mail with return receipt requested." The law retains all other postponement notice requirements, such as who must receive a postponement notice (grantor and occupants who may be residential tenants), the 15-day advance notice requirement, and ability to postpone once for no more than 2 days without giving the written postponement notice.

For rescheduling a sale date following bankruptcy stay, the law now requires that the amended notice of sale state *only* those defaults that existed on the date on which the stay was terminated (i.e., the amended notice of sale following a bankruptcy stay must exclude defaults cured during bankruptcy and include defaults arising during bankruptcy and remaining uncured after the stay is lifted). The law will also allow a minimum of 60 days to postpone a sale date set after the stay is lifted, regardless of the portion of the 180-day period allowed for postponement that remained on the day

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the bankruptcy stay was imposed. For example, if the grantor declared bankruptcy one (1) day before a sale scheduled on the 180th day, the beneficiary will have a 61-day window in which to conduct a re-noticed postponed trustee's sale. These are new subsections governing how to reschedule when a bankruptcy stay is lifted.

HB 2569: Chapter 125 Oregon Laws 2013; Effective January 1, 2014 (Law practice as trustee under trust deed)

Provides that a law practice may serve as trustee under a trust deed, as an alternative to a named attorney and other persons who have traditionally been able to serve as trustee. The "law practice" must be a professional corporation, partnership, limited liability partnership, limited liability company or sole proprietorship engaged in the practice of law in this state and must include an attorney who is an active member of the Oregon State Bar.

Two new subsections of ORS 86.705 provide alternatives for attorney signatures on any document required or permitted to be signed in connection with trust deeds:

1. If a law practice is the trustee, an individual attorney with an active Oregon bar license must sign the particular document. The signing attorney must be a shareholder, partner, member or employee of the law practice acting as trustee. The document being signed must state the signing attorney's name, Oregon bar number, and that the law practice-trustee has authorized the attorney to sign on the trustee's behalf.

2. If an attorney is the trustee, a different attorney with an active Oregon bar license rather than the trustee-attorney may sign the particular document. The signing attorney must be a shareholder, partner, member or employee of same law practice as the attorney acting as trustee. The document being signed must state the signing attorney's name, Oregon bar number, and that the attorney-trustee has authorized the attorney to sign on the trustee's behalf.

HB 2639A: Chapter 54 Oregon Laws 2013; Effective September 1, 2013 (Residential Landlord/Tenant - Housing Assistance Programs)

Creates a "Housing Choice Landlord Guarantee Program" and a "Statewide Housing Advisory Committee."

1. Both of these new programs are under the direction of the Housing and Community Services Department. The Housing Choice Landlord Guarantee Program allows eligible landlords, who are providing housing to tenants who receive certain housing assistance, to apply to the state for reimbursement of certain housing related damages and unpaid rent caused by those tenants. The landlord must obtain a judgment against the tenant and apply for reimbursement within a year to the Housing

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and Community Services Department. If the landlord's petition is accepted, the Department will pay for damages of more than \$500 but less than \$5,000.00 per tenancy. The Department will then attempt to collect reimbursement for those payments from the tenants who caused the damages. Repaid monies will be added to the "Housing Choice Landlord Guarantee Program Fund." Tenants may apply to the Department to waive reimbursement or appeal a determination that they have not made a good faith effort to make payments. Landlords and Local Housing Authorities may review material regarding tenant's compliance with the Department's attempts to collect funds. The bill also allows landlords to take into account a tenant's "past actions" and income, including housing assistance, when determining whether to rent a property to a particular tenant. Requires Local Housing Authorities to comply with additional reporting requirements. The Department has been delegated the authority to create further rules to implement this program.

2. The "Statewide Housing Advisory Committee" is to be appointed by the Director of the Housing and Community Services Department. It is to include people from throughout the state and to have roughly equal representation from Local Housing Authorities, landlords, and tenants or their advocates. Its role is to advise the Housing and Community Services Department and the legislature about the use of housing assistance programs and how to create greater participation and impact with those programs. The Housing and Community Services Department has authority to make rules to implement this program.

HB 2662: Chapter 317 Oregon Law 2013; Effective June 6, 2013; (Judicial and Nonjudicial Foreclosure)

Requires owners of residential real property who took title by nonjudicial or judicial foreclosure to avoid neglecting the property during any period in which the foreclosed property is vacant.

Neglect means: (A) actually failing to maintain the improvements and grounds such that (i) excessive foliage growth diminishes the value of adjacent property, (ii) trespassers or squatters occupy the house or other structures on the property, (iii) mosquitoes develop in standing water on the property, or (iv) other conditions cause or contribute to causing a public nuisance; or (B) failing to monitor the condition of the property by inspecting it at least once every 30 days in sufficient detail to prevent any such conditions.

The owner by foreclosure must provide the owner's or an owner's agent's name and contact information (telephone number or other) to any relevant neighborhood association. The owner by foreclosure must provide the owner's name and contact information to a designated official of the local government with jurisdiction over the property.

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The owner by foreclosure must post a durable notice in a conspicuous location on the property that lists a telephone number for the local government contact or the owner that a person may call to report neglect [this provision does not allow for "owner's agent"]. The owner must replace the notice if it is removed; no time limit is stated. (Perhaps we should assume replacement must occur in no longer than the 30-day inspection cycle).

If a local government finds the owner has neglected the property, then the local government must notify the owner in writing specifying a time within which the specific neglect must be remedied. The deadline must allow the owner at least 30 days to cure unless the condition constitutes a threat to public health or safety. The owner may contest the notice within 10 days following notification. If the owner fails to cure, the local government may do so, the owner must reimburse reasonable costs, the amount owed represents a lien *pari passu* with a tax lien, and the lien attaches when the local government files a claim of lien with the county clerk. The local government may sue to foreclosure the lien.

HB 2676: Chapter 205 Oregon Laws 2013; Effective 90 days after adjournment; (Manufactured Dwellings)

Expands the personal property tax exemption applicable to property valued at less than \$12,500 (ORS 308.250), which is tied to the CPI, to apply to a taxpayer's mobile home(s) located in the state's four (4) most populous counties.

In 2010, the Oregon legislature passed HB 3640. That law required the county assessor in a county with a population of more than 340,000 to cancel the ad valorem tax assessment for manufactured structures for the year, when the total assessed value of all manufactured structures taxable as personal property under ORS 308.875 of any taxpayer was less than \$12,500. This requirement for mandatory cancellation of property tax assessments was due to expire on January 1, 2014. This law eliminates the sunset, and the mandatory cancellation of property tax assessments will now continue with no expiration.

HB 2688: Chapter 206 Oregon Laws 2013; Effective January 1, 2014; (Chattel Lien—Foreclosure by Sale)

Provides that a statement of account filed by party foreclosing chattel lien must be verified under oath if the chattel sold has a fair market value of \$1,000 or more (increased from \$250). The statement of account must be sent by registered or certified mail to the "last known address of the" owner (revised to add the quoted language). Applies to chattel foreclosures that occur on or after the effective date.

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HB 2822: Chapter 464 Oregon Laws 2013; Effective June 24, 2013 (Notices of execution sale of real property)

Amends ORS 18.924 to require publication of notice of execution sale of real property in a newspaper of general circulation and on a website. Requires elected sheriffs to establish and maintain a website for posting of such legal notices. Adds requirement that newspaper notice must include instructions for locating the information posted on the sheriff's website.

HB 2856A: Chapter 281 Oregon Laws 2013; Effective June 4, 2013; (Use of Mortgage Loan Originator - Exemptions)

Amends ORS 86A.203 to add an exemption to acts that constitute engaging in the business of a mortgage loan originator ("MLO"). By definition, a MLO is a properly licensed individual who may make offers of residential mortgage loans.

As of June 4, 2013, the requirement to have an MLO license identified in the Nationwide Mortgage Licensing System and Registry does not apply to an individual seller of residential property who, in any rolling 12-month period, offers or negotiates terms of not more than three (3) residential mortgage loans, unless and until the federal Consumer Financial Protection Bureau expressly determines that the definition of MLO includes an individual conducting the activities described in this exemption.

The law's effect is to exempt seller carry-back loans from the requirement that an MLO offer the loan terms when the offer comes from an individual seller who meets the criteria of not doing more than three (3) such loan offers in any rolling 12-month period. It is not clear if the seller's offer may be for other than a carry-back loan (e.g., for a brokered loan available through another person such as a private lender, which then would not need an MLO involved in the transaction). (MLOs work for brokers or lenders.)

This exemption is not available to an individual offering a mortgage loan to facilitate sale of the seller's own personal residence, which is already allowed by ORS 86A.203(2)(c).

This exemption is not helpful to most small developers or landlords who wish to offer carry-back residential mortgage loans, or broker such loans, to facilitate sales of newly built homes or homes that have been rental properties. Most such property owners conduct their real estate operations through limited liability companies and this exemption is only available to *individuals* selling up to three (3) residential properties in any given 12-month period.



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HB 2929: Chapter 465 Oregon Laws 2013; Effective January 1, 2014; (Rescission of Trustee's Sale)

Requires a trustee of a trust deed to obtain from the Secretary of State a certificate of authority to transact business in Oregon as a foreign business entity, if the trustee is a financial institution, trust company, or title insurance company, unless the trustee has registered with or obtained a certificate of authority from the Director of the Department of Consumer and Business Services.

Amends ORS 86.755. A trustee is now permitted to rescind the trustee's sale and void the trustee's deed within 10 calendar days after the date of the trustee's sale only if:

- The trustee asserts that during the trustee's sale a bona fide error occurred in:
 1. Setting, advertising or otherwise specifying the opening bid amount for the property that is the subject of the trustee's sale;
 2. Providing a correct legal description of the property that is the subject of the trustee's sale; or
 3. Complying with a requirement or procedure that is imposed by law;
- The grantor and the beneficiary agreed to a foreclosure avoidance measure that would postpone or discontinue the trustee's sale; or
- The beneficiary accepted funds to reinstate the trust deed and obligation in accordance with ORS 86.753, even if the beneficiary did not have a legal duty to do so.

The bill also requires the trustee to provide notice of rescission of the sale within ten (10) calendar days after the date of the trustee's sale to all persons to whom notice of the sale was given. The trustee has to mail or serve notice of the rescission in the manner provided for serving or mailing the notice of sale under ORS 86.740 (1). The notice of rescission has to display the date the notice was mailed, served or delivered, and state and explain why the trustee rescinded the trustee's sale and voided the trustee's deed.

In addition, the trustee must refund the amount the purchaser paid for the property not later than three (3) calendar days after the date displayed on the notice of rescission. Finally, the trustee has to record an affidavit stating that the trustee provided the notice of rescission, and identifying the trust deed and the voided trustee's deed, no later than 21 days after the trustee's sale.

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HB 2978B: Chapter 324 Oregon Laws 2013; Effective January 1, 2014; (State Building Codes)

With exceptions, allows state or local governments to assess investigation fees for failure to obtain permits for work on certain building systems. Allows state to enjoin person or entity for failure to comply with state building codes. Prohibits person or entity from performing certain safety work without the appropriate Specialty Code License. Expands sanctions for violation of state building codes, including one prohibiting inspections on work performed on a relative's property.

HB 3067: Chapter 326 Oregon Laws 2013; Effective June 6, 2013 (Transfer of property from Multnomah to Washington County)

Transfers an area (Area 93 in Metro urban growth boundary 2002) of Multnomah County to Washington County and modifies the legal description of the respective counties. It also provides for members of the governing body to establish terms for plan of transfer.

HB 3172: Chapter 435 Oregon Laws 2013; Effective January 1, 2014; (Real Estate Disclosures)

Modifies the seller's property disclosure statement (ORS 105.464) to include representations regarding sewage and septic systems. The new disclosure requirements apply to written offers to purchase real property tendered on or after January 1, 2014, the effective date of the bill.

HB 3301: Chapter 438 Oregon Laws 2013; Effective January 1, 2014; (Electric Vehicle Charging Stations)

Notwithstanding provisions in a declaration or bylaws to the contrary, amends the Planned Community Act and Oregon Condominium Act to allow electric vehicle charging stations for personal non-commercial use to be installed and used in compliance with the statutes.

A homeowners or condominium association may require an owner to submit an application to the association before installing the charging station, may require the station to meet applicable architectural standards, may impose reasonable charges for review and permitting, and may impose reasonable restrictions on installation and use that do not significantly increase the cost or significantly decrease the efficiency. The homeowners or condominium association has 60 days to approve the application unless delay is a result of a reasonable request for additional information.

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Installation may be in a parking space assigned to the lot, unit, or owner and, with respect to a condominium, also in a limited common element with written approval of the unit owner of each unit for which the limited common element is reserved.

Cost of installation and use is responsibility of the owner. In the case of a planned community, the owner is responsible for any cost of damage to common property and to areas subject to exclusive use of other owners. In the case of condominiums, the owner is responsible for the cost of damage to general common elements, limited common elements, and areas subject to exclusive use of other unit owners. If additional infrastructure improvements are necessary to provide the community with a sufficient supply of electricity, the costs may be assessed by the homeowners or condominium association against the lot or unit of each owner that has or will install a charging station.

Existence of the charging station must be disclosed to prospective buyer of the lot or unit. If not a certified electrical product, minimum insurance requirements are mandated. Provides for attorney fees to a prevailing party in an action to enforce compliance.

HB 3389: Chapter _____ Oregon Laws 2013; As of 7/28/13, no Chapter number assigned; Effective July 2, 2013
(Residential Trust Deeds)

Introduces new law that facilitates the ability of non-profit 501(c)(3) entities that comply with certain rules to acquire residential properties in foreclosure by short sale and rent them back to the former grantor, under certain defined limits and restrictions.

Changes the determination of whether a trust deed is a "residential trust deed" to turn on whether the house was owner-occupied when the trust deed was recorded or, for a purchase money mortgage, if the grantor, grantor's spouse or grantor's minor or dependent child(ren) intended the house to be their principal residence at the time the trust deed was recorded. The meaning of "owner-occupied" continues to include occupancy by the grantor's spouse or minor dependent children.

Amends SB 558, passed this session, to clarify that documentation a beneficiary must produce under a residential trust deed prior to commencing foreclosure includes a certificate of compliance with the resolution conference process that is unexpired (less than 12 months old) when the notice of default is recorded or a copy of the affidavit of exemption filed with the DOJ that is likewise unexpired.

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SB 23: Chapter 145 Oregon Laws 2013; Effective May 16, 2013 (Real Estate Licensing)

Modifies provisions related to regulation of real estate activities. Provides for various changes in Chapter 696 relating to the Real Estate Agency in the general categories of property management, licensing, business name registry, exemptions from licensing requirements, continuing education, and client trust accounts. The changes were primarily clarifications; however, there is an added requirement that a property manager may engage in the management of rental real estate only pursuant to a written property management agreement. Requires principal real estate broker who receives client trust funds to maintain trust accounts or deposit funds into a neutral escrow account.

SB 46: Chapter 469 Oregon Law 2013; Effective January 1, 2014 (Statute of Ultimate Repose - Design Professionals)

Reduces the statute of ultimate repose for actions against design professionals involving certain large commercial structures from 10 years to six (6) years.

Unlike statutes of limitations, a statute of ultimate repose is a firm deadline when a plaintiff must bring a suit, generally without regard to the date of discovery or other equitable considerations. Currently, actions against architects, landscape architects, or engineers must be brought within two (2) years after the date the injury or damage is first discovered or should have been discovered. This two-year time period is a statute of limitation. However, an action must be brought, regardless of the date of discovery, within 10 years after substantial completion or abandonment of the construction, alteration or repair. This 10-year period is the statute of ultimate repose, and up until Senate Bill 46, it applied to structures of all types and sizes, whether residential or commercial.

With the passage of this Senate Bill, the statute of ultimate repose for actions against persons registered to practice architecture, landscape architecture, and engineering is reduced to six (6) years, but only for suits involving "large commercial structures" (as defined in ORS 701.005) that are not owned or maintained by a homeowners association or condominium association. For all others, including small commercial structures, residential structures, or large commercial structures owned or maintained by a homeowners or condo association, the statute of ultimate repose remains 10 years.

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SB 91A: Chapter 294 Oregon Laws 2013; Effective January 1, 2014 **(Residential Landlord/Tenant - Insurance)**

Allows landlords to require tenants to obtain and maintain renter's liability insurance, unless the household income of the tenant is less than 50% of the area median income or the dwelling unit has been subsidized with public funds. Restricts landlords from considering (a) prior eviction action(s) when evaluating an applicant if such action was dismissed or (b) certain previous arrests if the arrest did not result in a conviction.

SB 205: Chapter 168 Oregon Laws 2013; Effective January 1, 2014; **(Construction Contract Requirements)**

Amends a portion of the Construction Contractors Licensing Act (ORS 701.305(2)) to require that standard contractual terms be clear and use words of common understanding. Deletes express requirements that such contracts contain: (a) a statement that the contractor is licensed by the CCB; (b) the contractor's contact information, as shown on CCB records as of the date of the contract; (c) an acknowledgement of a written offer of a warranty, where such offer is required by statute, and an acknowledgement of the acceptance or rejection of the offer; (d) a list of various statutory notices; and (e) an explanation of the property owner's rights under the contract.

SB 207: Chapter 300, Oregon Laws 2013; Effective January 1, 2014; **(Construction Contractor Licensing)**

Requires that if a limited partnership applies for a construction contractor license, the application contain the names and addresses of limited partners, general partners, joint venturers, managers, members and officers of any entity that is the general partner of such limited partnership. Requires reporting of money judgments, final orders issued by administrative agencies, and convictions or indictments against those general partners or their constituents, and requires reporting of changes in names and addresses of certain general partners. Deletes redundant disclosure requirement.

Creates a residential locksmith services contractor license and a home inspector services contractor license. Imposes bond, insurance and responsible managing individual requirements for residential locksmith services contractors and home inspector services contractors, and imposes bond and insurance requirements for home services contractors. Exempts residential locksmith services contractors, home inspector services contractors and home services contractors from residential contractor continuing education requirements and testing by the Construction Contractors Board.

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Adds companies that utilize workers supplied by a worker leasing company to the category of nonexempt independent contractor, and imposes penalties and sanctions for exempt independent contractors that utilize such workers.

SB 406A: Chapter 341 Oregon Laws 2013; Effective June 6, 2013; (Marriage / Domestic Partnership—Name Change)

Provides that upon entering into marriage or registered domestic partnership, either party may retain or remove the party's middle name, change the party's surname to one or more of the parties' surnames with or without hyphenation, add the party's surname to his/her middle name, or change his/her surname to the surname of the other party.

SB 408: Chapter 476 Oregon Laws 2013; Effective January 1, 2014; (Highway Management - Approach Roads)

Establishes presumption that, in certain specified circumstances, an owner of real property abutting a state highway with existing approach roads has the Oregon Department of Transportation's written permission for use of the approach road for a then existing right of access. Requires that new State Transportation Plans balance the needs of adjacent property owners, cities and counties with the State's objectives for the Plan. Provides regulations for the procedures involved.

SB 505: Chapter 447 Oregon Laws 2013; Effective 90 days after adjournment; (Special Assessments)

Allows a property owner, subject to special circumstances, to claim a refund or have unpaid taxes abated if they incorrectly requested disqualification of their property from a special assessment when the property was in fact qualified for that assessment. The special circumstance to which the owner is subject is having acted on incorrect written advice from a county body stating that the disqualification was necessary. If the written notice was the sole cause of the disqualification, the taxpayer must provide the tax assessor with adequate written notice of the error within 90 days of the effective date of the bill to qualify for the relief. The law sunsets in 2016.

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SB 558: Chapter 304 Oregon Laws 2013; Effective June 4, 2013; (Judicial and Nonjudicial Foreclosure)

Takes effect June 4, 2013 but becomes operative on August 4, 2013 (61 days after the effective date). As of August 4, 2013, the law applies to (a) requests for resolution conferences (formerly “mediations”) that a beneficiary or grantor submits, (b) notices of sale that a trustee or beneficiary or agent of trustee or beneficiary sends in a nonjudicial foreclosure, and (c) lawsuits to foreclose a residential trust deed that commence on or after that date.

The amendments contained in the law completely replace the foreclosure mediation program provisions of Sections 2a and 3, Chapter 112, Oregon Laws 2012, which are repealed.

The law adds the modifier “residential” to trust deed to clarify that only residential trust deeds are subject to the resolution conference program.

The \$100 fee to the county clerk due with each nonexempt creditor’s notice of default is rescinded and replaced by resolution conference participation fees.

To be exempt from the resolution conference requirements, lenders are still required to submit an affidavit to the Attorney General annually by January 31st of each calendar year or with each recording of a notice of default for nonjudicial foreclosure and each filing of a judicial foreclosure lawsuit. To qualify for the exemption, the aggregate number of judicial and nonjudicial foreclosures by affiliates, subsidiaries and agents of the beneficiary must not exceed 175 in the preceding calendar year. The right to the exemption must be recalculated, and the exemption renewed, annually. An exempt beneficiary that has submitted an annual exemption affidavit may use the resolution conference program without waiving its exemption and without paying the processing fee.

Nonexempt beneficiaries must request resolution conferences for each identified trust deed foreclosure. The grantor may request a resolution conference if the beneficiary has not submitted an annual exemption affidavit, the beneficiary or its trustee has not yet recorded a notice of default and not filed a foreclosure lawsuit against the grantor, and the grantor submits to the service provider a housing counselor’s written certification that the grantor is more than 30 days in default or has a financial hardship which the housing counsel believes may qualify the grantor for a foreclosure avoidance measure.

The law specifies many operational aspects of the resolution conference process and preparation for it:

1. Timeframes within which the service provider must schedule a requested resolution conference and notify the parties;

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2. The content of the service provider's notices, which may include additional information the Attorney General requires by rule;
3. Cost and fee payments, including fee caps, due from beneficiary and grantor;
4. Requirements that the service provider deposit all fees it collects from beneficiaries and grantors into the Foreclosure Avoidance Fund;
5. Preparation information the grantor must submit;
6. Preparation information the beneficiary and trustee must submit;
7. The grantor's housing counseling requirements in preparation for the conference;
8. Conditions governing ability to postpone, reschedule and/or cancel a conference; and
9. Certain conditions of the resolution conference itself, such as who may and who should attend, a requirement that the beneficiary have an attendee or a participant by remote communication with complete authority to negotiate and commit the beneficiary to a foreclosure avoidance measure, the requirement of a signed writing of the agreed avoidance measure if agreed during or as a result of the conference, and the facilitator's post-resolution tasks.

The law requires the Attorney General to enter into an agreement with a service provider to coordinate and manage the program as described, acquire the appropriate information technology goods and services, and receive the submitted exemption affidavits, specify facilitator qualifications, specify conference procedures, and pay for program resources from the Foreclosure Avoidance Fund.

The law substantially modifies conditions governing the notice to a grantor of ineligibility for foreclosure avoidance measures. This section is revised to clearly apply to residential trust deeds. *It applies to exempt as well as nonexempt beneficiaries and applies whether or not there was a resolution conference.* Instead of at least 30 days before the sale date, an ineligibility notice must be sent to the grantor and simultaneously to the Department of Justice within 10 days of the ineligibility decision. Instead of delivering by service, the notice need only be mailed. The notice must explain in plain language why the beneficiary made the decision. The provision applies *if* the beneficiary made an ineligibility determination, and does not impose an affirmative duty to determine ineligibility. However, at least five (5) days before the actual sale date, all residential trust deed beneficiaries must record an affidavit of compliance with the ineligibility notice section of the law. A beneficiary who fails to give proper notice if the ineligibility determination was made

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or fails to properly record the affidavit about how ineligibility was addressed is liable for \$500 plus the grantor's actual damages.

ORS 86.735 is amended to add more conditions that must be met to foreclose nonjudicially. The beneficiary must have recorded a certificate of compliance with the Attorney General's resolution conference program or an exemption affidavit. If applicable, the beneficiary must be able to show the grantor failed to comply with any foreclosure avoidance measure on which beneficiary and grantor agreed.

ORS 88.010 is amended to require that certain resolution conference program compliance documents be filed with the initial complaint to commence a judicial foreclosure. The court may dismiss without prejudice or may stay proceedings in a case filed without the requisite paperwork, either on its own motion or in response to a defendant's motion. The court may award a defendant prevailing on such a motion reasonable costs and attorney fees for the motion and any other relief the court deems proper.

A resolution conference conducted according to this law does not replace any mediation that a court or another provision of law requires.

In addition to any other applicable penalties for violating this law, a beneficiary's violation is an unlawful practice under ORS 646.607 and is subject to enforcement under ORS 646.632.