LC 43
1/22/08 (CT/ps/ss/c)

DRAFT

SUMMARY

Imposes duties and restrictions on foreclosure consultants. Requires that provision of foreclosure consulting services to homeowners be pursuant to written contract. Makes violation of foreclosure consulting laws unfair trade practice. Makes violation of foreclosure consulting laws criminal offense with maximum penalty of one year's imprisonment, $10,000 fine, or both. Creates private cause of action for damages arising from violation of foreclosure consulting laws. Applies to agreements for foreclosure services homeowner enters into 90 or more days after effective date of Act.

Imposes duties and restrictions on equity purchasers. Requires that conveyance of homeowner equity in residence in foreclosure be pursuant to written contract. Makes violation of equity conveyance laws unlawful practice. Makes violation of equity conveyance laws criminal offense with maximum penalty of one year's imprisonment, $10,000 fine, or both. Applies to equity conveyance agreements equity seller enters into seven or more days after effective date of Act.

Requires trustee to provide grantor of residential trust deed with toll-free telephone access to certain loan information and consultant services. Makes violation subject to civil penalty, not to exceed $500. Applies to trust deeds created on or after effective date of Act.

Requires trustee to send grantor of residential trust deed notice of pending foreclosure and possible ways to avoid foreclosure at or before time trustee sends grantor notice of sale. Makes violation subject to civil penalty, not to exceed $500. Applies to residential trust deed properties for which trustee sends notice of sale 90 or more days after effective date of Act.

Requires Department of Consumer and Business Services to adopt rules specifying statewide telephone contact number and website address where grantors of residential trust deeds facing foreclosure may find possible sources of information and assistance.

Declares emergency, effective on passage.

1 **A BILL FOR AN ACT**

2 Relating to interests in residential real properties; creating new provisions;
3 amending ORS 646.607 and 646.608; and declaring an emergency.

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 **Be It Enacted by the People of the State of Oregon:**
2 **SECTION 1.** **Sections 2 to 6 and 10 to 15 of this 2008 Act may be cited**
3 **as the Mortgage Rescue Fraud Protection Act.**
4 **SECTION 2.** **As used in sections 2 to 6 of this 2008 Act:**
5 **(1) "Default" means having one or more homeowner obligations in**
6 **arrears to an extent that a notice of default could properly be recorded**
7 **against the residence.**
8 **(2) "Family" means a spouse, domestic partner, parent, stepparent,**
9 **grandparent, child, stepchild, grandchild, sibling, aunt, uncle, cousin**
10 **or in-law.**
11 **(3) "Foreclosure consultant," except as provided in section 3 of this**
12 **2008 Act, means a person that directly or through association with**
13 **another makes a solicitation, representation or offer to a homeowner**
14 **to perform, for compensation or with the intent to be compensated, a**
15 **service that the solicitation, representation or offer indicates will ac-**
16 **complish one or more of the following:**
17 **(a) Prevent, postpone or stop a foreclosure sale.**
18 **(b) Obtain a forbearance from a beneficiary or mortgagee.**
19 **(c) Assist the homeowner in exercising a right of redemption.**
20 **(d) Obtain an extension of the period within which the homeowner**
21 **may reinstate the homeowner's obligation.**
22 **(e) Obtain the waiver of an acceleration clause that is:**
23 **(A) Contained in a promissory note or contract; and**
24 **(B) Secured by or contained in a deed of trust for, or mortgage on,**
25 **a residence in foreclosure or in default.**
26 **(f) Assist the homeowner in obtaining a loan or advance of funds.**
27 **(g) Avoid or ameliorate an impairment of the homeowner's credit**
28 **resulting from a recorded notice of default or foreclosure.**
29 **(4) "Foreclosure consulting contract" mean an agreement between**
30 **a foreclosure consultant and a homeowner for the provision of services**
31 **by a foreclosure consultant in regard to a residence in foreclosure or**

1 **in default.**

2 **(5) "Homeowner" means the record owner of a residence.**

3 **(6) "Residence in foreclosure" means residential real property:**

4 **(a) Consisting of one to four single-family dwelling units;**

5 **(b) On which the owner occupies a dwelling unit; and**

6 **(c) Against which a notice of default has been recorded.**

7 SECTION 3. The following are not foreclosure consultants for pur-
8 poses of sections 2 to 6 of this 2008 Act:

9 **(1) An individual licensed to practice law in this state, if performing**
10 **services within an attorney-client relationship.**

11 **(2) A person that holds or is owed an obligation that is secured by**
12 **a lien on a residence in foreclosure or default, if performing services**
13 **in connection with the obligation or lien.**

14 **(3) A person doing business under authority of an Oregon or federal**
15 **law regulating banks, trust companies, savings and loan associations,**
16 **credit unions or insurance companies, or as a licensee under ORS**
17 **chapter 725, if performing business services within the scope of that**
18 **authority or license.**

19 **(4) A subsidiary, affiliate or agent of a person described in sub-**
20 **section (3) of this section, if performing business services within the**
21 **scope of the person's authority or license as the person's subsidiary,**
22 **affiliate or agent.**

23 **(5) The judgment creditor of a homeowner, if the creditor's claim**
24 **accrued before the trustee sent the creditor a notice of sale under ORS**
25 **86.740.**

26 **(6) A title insurer authorized to conduct business in Oregon or an**
27 **insurance producer licensed to conduct business in Oregon, if per-**
28 **forming title insurance or settlement services within the scope of that**
29 **authority or license.**

30 **(7) A mortgage broker or mortgage lender licensed under ORS**
31 **chapter 59 to conduct business in Oregon, if acting within the scope**

1 **of that license.**

2 **(8) A real estate licensee under ORS 696.022 or an escrow agent li-**
3 **censed under ORS 696.511, if acting within the scope of that license and**
4 **provided that any resulting transfer of interest by a homeowner occurs**
5 **after a settlement conference as defined in section 10 of this 2008 Act.**

6 **(9) A tax-exempt organization that offers counseling or advice to**
7 **homeowners in foreclosure if the organization:**

8 **(a) Is not directly or indirectly related to for-profit lenders or fore-**
9 **closure purchasers;**

10 **(b) Does not contract to provide services to or receive services from**
11 **for-profit lenders or foreclosure purchasers; and**

12 **(c) Has provided counseling or advice to homeowners for five years**
13 **or more.**

14 **(10) A creditors' committee, trustee or debtor in possession partic-**
15 **ipating in a proceeding under the jurisdiction of the United States**
16 **Bankruptcy Court.**

17 **(11) A person that is a member of the homeowner's family or is**
18 **owned or controlled by a member of the homeowner's family.**

19 **<u>SECTION 4.</u> (1) A written foreclosure consulting contract is re-**
20 **quired for any services that a foreclosure consultant provides to a**
21 **homeowner. A foreclosure consultant shall provide a homeowner with**
22 **a copy of the foreclosure consulting contract at least 24 hours before**
23 **the homeowner signs the contract. The foreclosure consulting contract**
24 **must:**

25 **(a) Be written in a language that is spoken by the homeowner and**
26 **that was used in discussions between the homeowner and foreclosure**
27 **consultant to describe the foreclosure consultant's services or to ne-**
28 **gotiate the contract and, except as provided in paragraph (f) of this**
29 **subsection, be printed in at least 12-point type.**

30 **(b) Fully disclose the nature and extent of the services the foreclo-**
31 **sure consultant is to provide.**

(c) Fully disclose the terms and total amount of any compensation the foreclosure consultant or a person working in association with the foreclosure consultant is to receive.

(d) Be dated and personally signed by the homeowner and the foreclosure consultant.

(e) Contain on the first page the name of the foreclosure consultant and an address to which a notice of cancellation may be mailed.

(f) Contain, in immediate proximity to the space reserved for the homeowner's signature, a notice in substantially the following form and printed in at least 14-point boldfaced type:

NOTICE REQUIRED BY OREGON LAW

THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT IN THE LOSS OF YOUR HOME. YOU SHOULD CONTACT AN ATTORNEY OR OTHER PROFESSIONAL ADVISOR BEFORE SIGNING.

YOU MAY CANCEL THIS CONTRACT AT ANY TIME.

If you cancel, you must repay any money spent on your behalf under this contract. You have 60 days to repay the money. You must also pay any interest allowed by this contract, which may not exceed nine percent per year.

_____ (name of foreclosure consultant) or any person working with _____ (name of foreclosure consultant) CANNOT ask you to sign or have you sign any lien, mortgage or deed that transfers an interest in your home or property to _____ (name of foreclosure consultant) or any person working with _____ (name of foreclosure consultant).

1 _____ (name of foreclosure consultant) or any person
2 working with _____ (name of foreclosure consultant)
3 CANNOT guarantee you that they will be able to refinance your home
4 or arrange for you to keep your home.
5
6 The law requires that this contract contain the entire agreement. You
7 should not rely on any other written or oral agreement or promise.
8 _____
9 (2) A foreclosure consulting contract provision is void if the pro-
10 vision provides for the homeowner to:
11 (a) Waive any rights of the homeowner under sections 2 to 6 of this
12 2008 Act;
13 (b) Consent to jurisdiction for litigation in a state other than
14 Oregon;
15 (c) Consent to a choice of laws provision that applies the laws of a
16 state other than Oregon;
17 (d) Consent to venue in a county other than the county in which
18 the residence in foreclosure or default is located; or
19 (e) Pay any costs or fees incurred by the foreclosure consultant to
20 enforce the contract, other than court costs and filing fees incurred
21 in a successful circuit court action.
22 SECTION 5. (1) In addition to any other cancellation or rescission
23 right, a homeowner may cancel a foreclosure consulting contract as
24 provided under this section at any time.
25 (2) Cancellation under this section occurs when the homeowner
26 gives written notice of cancellation to the foreclosure consultant:
27 (a) At a physical address specified in the foreclosure consulting
28 contract; or
29 (b) At a facsimile number or electronic mail address specified in the
30 foreclosure consulting contract.
31 (3)(a) If the homeowner gives written notice of cancellation under

this section by mail, the notice is effective when deposited in the United States mail with the proper address and postage.

(b) If the homeowner gives written notice of cancellation under this section by facsimile number or electronic mail, the notice is effective upon receipt. Proof of a transmission by the homeowner to the facsimile number or electronic mail address specified in the foreclosure consulting contract creates a rebuttable presumption that the foreclosure consultant received the notice at the time of the transmission.

(4) A homeowner who cancels a foreclosure consulting contract under this section shall, no later than 60 days after the cancellation is effective, repay any moneys paid or advanced under the contract by or on behalf of the foreclosure consultant. The homeowner shall also pay any interest allowed by the foreclosure consulting contract, not to exceed nine percent per year.

(5) Failure of the homeowner to repay moneys as provided in subsection (4) of this section does not invalidate the cancellation of the foreclosure consulting contract.

(6) When both parties have signed the foreclosure consulting contract, the foreclosure consultant shall immediately provide the homeowner with a signed and dated copy of the contract and a cancellation form. The cancellation form must:

(a) Be in duplicate;

(b) Be on a separate sheet of paper attached to the foreclosure consulting contract;

(c) Be easily detachable; and

(d) Contain a statement in substantially the following form and printed in at least 14-point boldfaced type:

HOW TO CANCEL

_____ (Date of Contract)

YOU MAY CANCEL THIS CONTRACT WITHOUT PENALTY AT ANY TIME.

To cancel the contract, mail or deliver a signed and dated copy of this Notice of Cancellation, or write something saying you want to cancel, and send it to _____ (name of foreclosure consultant) at _____ (address of foreclosure consultant). You can cancel by fax or e-mail. Send any cancellation by fax to _____ or any cancellation by e-mail to _____.

If you cancel, you must repay any money spent on your behalf under this contract. You have 60 days to repay the money. Your repayment must include any interest allowed under the contract, which may not exceed nine percent per year.

NOTICE OF CANCELLATION

TO: _____ (name of foreclosure consultant)

_____ (address, fax or e-mail of foreclosure consultant)

I cancel this contract.

Date: _____

Your (homeowner's) signature: _____

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(7) A written notice of cancellation under this section is sufficient, however expressed, if the notice indicates the intent of the homeowner to cancel the foreclosure consulting contract. The contract may not

1 **require the homeowner to use the notice of cancellation form set forth**
2 **in subsection (6) of this section.**
3 **SECTION 6. A foreclosure consultant may not:**
4 **(1) Claim, demand, charge, collect or receive any compensation**
5 **from a homeowner unless the foreclosure consultant has fully per-**
6 **formed each service the foreclosure consultant contracted to perform**
7 **for the homeowner.**
8 **(2) Claim, demand, charge, collect or receive interest or other**
9 **compensation that exceeds nine percent per year on any loan by the**
10 **foreclosure consultant to the homeowner or on any moneys paid or**
11 **advanced to the homeowner under the foreclosure consulting contract.**
12 **(3) Take a wage assignment, lien on real or personal property or**
13 **other security for the payment of compensation.**
14 **(4) Receive consideration from a third party in connection with**
15 **services provided by a foreclosure consultant to a homeowner, unless**
16 **the consideration is first fully disclosed in writing to the homeowner.**
17 **(5) Acquire an interest in a residence in foreclosure or default**
18 **transferred by a homeowner with whom the foreclosure consultant has**
19 **contracted, whether directly, indirectly or through a subsidiary, affil-**
20 **iate or related entity in which the foreclosure consultant or a member**
21 **of the foreclosure consultant's family is a primary member, share-**
22 **holder or owner.**
23 **(6) Acquire an interest in a residence in foreclosure or default from**
24 **a third party for facilitating or arranging for entry into an equity**
25 **conveyance as defined in section 10 of this 2008 Act by a homeowner**
26 **with whom the foreclosure consultant has contracted, whether di-**
27 **rectly, indirectly or through a subsidiary, affiliate or related entity in**
28 **which the foreclosure consultant or a member of the foreclosure con-**
29 **sultant's family is a primary member, shareholder or owner.**
30 **(7) Take a power of attorney from a homeowner except for the**
31 **purpose of obtaining or inspecting documents.**

(8) Induce or attempt to induce any homeowner to enter into a foreclosure consulting contract that does not comply in all respects with sections 2 to 6 of this 2008 Act.

SECTION 7. (1) As used in this section, "homeowner" has the meaning given that term in section 2 of this 2008 Act.

(2) In addition to any action by the Attorney General under ORS 646.608 or other cause of action, a homeowner may bring an action for damages incurred by the homeowner resulting from a violation of sections 2 to 6 of this 2008 Act.

(3) If a court finds that a defendant in an action under this section committed a violation of sections 2 to 6 of this 2008 Act knowingly, in addition to any award of damages for other violations of sections 2 to 6 of this 2008 Act, the court shall award the homeowner treble the amount of the actual damages sustained by the homeowner as a result of the knowing violation.

(4) The court may award a homeowner prevailing in an action under this section reasonable attorney fees, costs and expenses. If a court finds that a homeowner brought an action under this section in bad faith or solely for purposes of harassment, the court may award a prevailing defendant reasonable attorney fees.

(5) An action under this section must be commenced within six years.

SECTION 8. ORS 646.608, as operative until July 1, 2008, is amended to read:

(1) A person engages in an unlawful practice when in the course of the person's business, vocation or occupation the person does any of the following:

(a) Passes off real estate, goods or services as those of another.

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

1 (c) Causes likelihood of confusion or of misunderstanding as to affiliation,
2 connection, or association with, or certification by, another.
3 (d) Uses deceptive representations or designations of geographic origin in
4 connection with real estate, goods or services.
5 (e) Represents that real estate, goods or services have sponsorship, ap-
6 proval, characteristics, ingredients, uses, benefits, quantities or qualities that
7 they do not have or that a person has a sponsorship, approval, status, qual-
8 ification, affiliation, or connection that the person does not have.
9 (f) Represents that real estate or goods are original or new if they are
10 deteriorated, altered, reconditioned, reclaimed, used or secondhand.
11 (g) Represents that real estate, goods or services are of a particular
12 standard, quality, or grade, or that real estate or goods are of a particular
13 style or model, if they are of another.
14 (h) Disparages the real estate, goods, services, property or business of a
15 customer or another by false or misleading representations of fact.
16 (i) Advertises real estate, goods or services with intent not to provide
17 them as advertised, or with intent not to supply reasonably expectable public
18 demand, unless the advertisement discloses a limitation of quantity.
19 (j) Makes false or misleading representations of fact concerning the rea-
20 sons for, existence of, or amounts of price reductions.
21 (k) Makes false or misleading representations concerning credit avail-
22 ability or the nature of the transaction or obligation incurred.
23 (L) Makes false or misleading representations relating to commissions or
24 other compensation to be paid in exchange for permitting real estate, goods
25 or services to be used for model or demonstration purposes or in exchange
26 for submitting names of potential customers.
27 (m) Performs service on or dismantles any goods or real estate when not
28 authorized by the owner or apparent owner thereof.
29 (n) Solicits potential customers by telephone or door to door as a seller
30 unless the person provides the information required under ORS 646.611.
31 (o) In a sale, rental or other disposition of real estate, goods or services,

1 gives or offers to give a rebate or discount or otherwise pays or offers to pay
2 value to the customer in consideration of the customer giving to the person
3 the names of prospective purchasers, lessees, or borrowers, or otherwise
4 aiding the person in making a sale, lease, or loan to another person, if
5 earning the rebate, discount or other value is contingent upon occurrence
6 of an event subsequent to the time the customer enters into the transaction.
7 (p) Makes any false or misleading statement about a prize, contest or
8 promotion used to publicize a product, business or service.
9 (q) Promises to deliver real estate, goods or services within a certain pe-
10 riod of time with intent not to deliver them as promised.
11 (r) Organizes or induces or attempts to induce membership in a pyramid
12 club.
13 (s) Makes false or misleading representations of fact concerning the of-
14 fering price of, or the person's cost for real estate, goods or services.
15 (t) Concurrent with tender or delivery of any real estate, goods or ser-
16 vices fails to disclose any known material defect or material nonconformity.
17 (u) Engages in any other unfair or deceptive conduct in trade or com-
18 merce.
19 (v) Violates any of the provisions relating to auction sales, auctioneers
20 or auction marts under ORS 698.640, whether in a commercial or noncom-
21 mercial situation.
22 (w) Manufactures mercury fever thermometers.
23 (x) Sells or supplies mercury fever thermometers unless the thermometer
24 is required by federal law, or is:
25 (A) Prescribed by a person licensed under ORS chapter 677; and
26 (B) Supplied with instructions on the careful handling of the thermometer
27 to avoid breakage and on the proper cleanup of mercury should breakage
28 occur.
29 (y) Sells a thermostat that contains mercury unless the thermostat is la-
30 beled in a manner to inform the purchaser that mercury is present in the
31 thermostat and that the thermostat may not be disposed of until the mercury

is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater. For purposes of this paragraph, "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.

(z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains mercury light switches.

(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

(bb) Violates ORS 646A.070 (1).

(cc) Violates any requirement of ORS 646A.030 to 646A.040.

(dd) Violates the provisions of ORS 128.801 to 128.898.

(ee) Violates ORS 646.883 or 646.885.

(ff) Violates any provision of ORS 646A.020.

(gg) Violates ORS 646.569.

(hh) Violates the provisions of ORS 646A.142.

(ii) Violates ORS 646A.360.

(jj) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.

(kk) Violates ORS 646.563.

(LL) Violates ORS 759.690 or any rule adopted pursuant thereto.

(mm) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant thereto.

(nn) Violates ORS 646A.210 or 646A.214.

(oo) Violates any provision of ORS 646A.124 to 646A.134.

(pp) Violates ORS 646A.254.

(qq) Violates ORS 646A.095.

(rr) Violates ORS 822.046.

(ss) Violates ORS 128.001.

(tt) Violates ORS 646.649 (2) to (4).

(uu) Violates ORS 646A.090 (2) to (4).

(vv) Violates ORS 87.686.

(ww) Violates ORS 646.651.

(xx) Violates ORS 646A.362.

(yy) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.

(zz) Violates ORS 180.440 (1).

(aaa) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

(bbb) Violates ORS 87.007 (2) or (3).

(ccc) Violates ORS 92.405 (1), (2) or (3).

(ddd) Engages in an unlawful practice under ORS 646.648.

(eee) Violates ORS 646A.365.

(fff) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.

(ggg) Sells a gift card in violation of ORS 646A.276.

(hhh) Violates ORS 646A.102, 646A.106 or 646A.108.

(iii) Violates a provision of sections 2 to 6 of this 2008 Act.

(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

(3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.

(4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.

(5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought under subsection (1)(zz) of this section by a person other than a prosecuting attorney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney fees.

SECTION 9. ORS 646.608 is amended to read:

646.608. (1) A person engages in an unlawful practice when in the course of the person's business, vocation or occupation the person does any of the

following:

(a) Passes off real estate, goods or services as those of another.

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

(d) Uses deceptive representations or designations of geographic origin in connection with real estate, goods or services.

(e) Represents that real estate, goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or qualities that they do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

(f) Represents that real estate or goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

(g) Represents that real estate, goods or services are of a particular standard, quality, or grade, or that real estate or goods are of a particular style or model, if they are of another.

(h) Disparages the real estate, goods, services, property or business of a customer or another by false or misleading representations of fact.

(i) Advertises real estate, goods or services with intent not to provide them as advertised, or with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(j) Makes false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions.

(k) Makes false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred.

(L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.

(m) Performs service on or dismantles any goods or real estate when not authorized by the owner or apparent owner thereof.

(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.

(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon occurrence of an event subsequent to the time the customer enters into the transaction.

(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.

(q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver them as promised.

(r) Organizes or induces or attempts to induce membership in a pyramid club.

(s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.

(t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any known material defect or material nonconformity.

(u) Engages in any other unfair or deceptive conduct in trade or commerce.

(v) Violates any of the provisions relating to auction sales, auctioneers or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.

(w) Manufactures mercury fever thermometers.

(x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal law, or is:

(A) Prescribed by a person licensed under ORS chapter 677; and

(B) Supplied with instructions on the careful handling of the thermometer

1 to avoid breakage and on the proper cleanup of mercury should breakage
2 occur.
3 (y) Sells a thermostat that contains mercury unless the thermostat is la-
4 beled in a manner to inform the purchaser that mercury is present in the
5 thermostat and that the thermostat may not be disposed of until the mercury
6 is removed, reused, recycled or otherwise managed to ensure that the mer-
7 cury does not become part of the solid waste stream or wastewater. For
8 purposes of this paragraph, "thermostat" means a device commonly used to
9 sense and, through electrical communication with heating, cooling or venti-
10 lation equipment, control room temperature.
11 (z) Sells or offers for sale a motor vehicle manufactured after January 1,
12 2006, that contains mercury light switches.
13 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
14 (bb) Violates ORS 646A.070 (1).
15 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
16 (dd) Violates the provisions of ORS 128.801 to 128.898.
17 (ee) Violates ORS 646.883 or 646.885.
18 (ff) Violates any provision of ORS 646A.020.
19 (gg) Violates ORS 646.569.
20 (hh) Violates the provisions of ORS 646A.142.
21 (ii) Violates ORS 646A.360.
22 (jj) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
23 (kk) Violates ORS 646.563.
24 (LL) Violates ORS 759.690 or any rule adopted pursuant thereto.
25 (mm) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any
26 rule adopted pursuant thereto.
27 (nn) Violates ORS 646A.210 or 646A.214.
28 (oo) Violates any provision of ORS 646A.124 to 646A.134.
29 (pp) Violates ORS 646A.254.
30 (qq) Violates ORS 646A.095.
31 (rr) Violates ORS 822.046.

(ss) Violates ORS 128.001.

(tt) Violates ORS 646.649 (2) to (4).

(uu) Violates ORS 646A.090 (2) to (4).

(vv) Violates ORS 87.686.

(ww) Violates ORS 646.651.

(xx) Violates ORS 646A.362.

(yy) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.

(zz) Violates ORS 180.440 (1).

(aaa) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

(bbb) Violates ORS 87.007 (2) or (3).

(ccc) Violates ORS 92.405 (1), (2) or (3).

(ddd) Engages in an unlawful practice under ORS 646.648.

(eee) Violates ORS 646A.365.

(fff) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.

(ggg) Sells a gift card in violation of ORS 646A.276.

(hhh) Violates ORS 646A.102, 646A.106 or 646A.108.

(iii) Violates ORS 646A.430 to 646A.450.

(jjj) Violates a provision of sections 2 to 6 of this 2008 Act.

(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

(3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.

(4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.

(5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an

1 action or suit is brought under subsection (1)(zz) of this section by a person
2 other than a prosecuting attorney, relief is limited to an injunction and the
3 prevailing party may be awarded reasonable attorney fees.

4 **SECTION 10. As used in sections 10 to 15 of this 2008 Act:**

5 **(1) "Bona fide purchaser" means a person that purchases a resi-**
6 **dential real property from an equity purchaser:**

7 **(a) For valuable consideration;**

8 **(b) In good faith;**

9 **(c) Without knowledge of any continuing right to, or equity in, the**
10 **property by the equity seller; and**

11 **(d) Without knowledge of any violation of sections 10 to 15 of this**
12 **2008 Act by the equity purchaser regarding the property.**

13 **(2) "Business day" does not mean a Saturday or a legal holiday de-**
14 **scribed in ORS 187.010 or 187.020.**

15 **(3) "Equity conveyance" means a transaction that involves:**

16 **(a) The transfer of an interest in a residence in foreclosure by an**
17 **equity seller to an equity purchaser, or to another person acting in**
18 **association with the equity purchaser, that allows the equity pur-**
19 **chaser or other person to obtain legal or equitable title to all or part**
20 **of the residential real property; and**

21 **(b) A subsequent conveyance, or agreement for a subsequent**
22 **conveyance, of an interest in the residential real property from the**
23 **equity purchaser or other person to the equity seller to allow the eq-**
24 **uity seller to possess the property during, or after termination of, the**
25 **foreclosure process.**

26 **(4) "Equity conveyance contract" means a written contract between**
27 **an equity seller and an equity purchaser that contains an agreement**
28 **for an equity conveyance.**

29 **(5) "Equity purchaser," except as provided in section 11 of this 2008**
30 **Act, means a person that enters into an equity conveyance that**
31 **transfers to the person, or to another acting in association with the**

1 **person, an interest in residential real property sufficient to allow ob-**
2 **taining legal or equitable title to all or part of the property.**
3 **(6) "Equity seller" means a natural person who is the record owner**
4 **of a residence in foreclosure at the time an interest in the residence**
5 **is transferred under an equity conveyance to an equity purchaser or**
6 **to a person acting in association with an equity purchaser.**
7 **(7) "Primary housing expenses" means the total amount required**
8 **to pay regular principal, interest, rent, utilities, hazard insurance, real**
9 **estate taxes and association dues on a residential real property.**
10 **(8) "Resale" means a sale by an equity purchaser to a bona fide**
11 **purchaser of residential real property that is the subject of an equity**
12 **conveyance contract.**
13 **(9) "Resale price" means the gross sale price of a residential real**
14 **property upon resale.**
15 **(10) "Residence in foreclosure" means residential real property:**
16 **(a) Consisting of one to four single-family dwelling units;**
17 **(b) On which the owner occupies a dwelling unit; and**
18 **(c) Against which a notice of default has been recorded.**
19 **(11) "Settlement agent" means a provider of settlement services**
20 **who:**
21 **(a) Is a licensed escrow agent, title insurance agent or attorney;**
22 **and**
23 **(b) Is not the equity purchaser or an employee or associate of the**
24 **equity purchaser.**
25 **(12) "Settlement conference" means an in-person meeting between**
26 **an equity seller and a settlement agent:**
27 **(a) For the purpose of completing documents incident to the**
28 **transfer of an interest as part of an equity conveyance; and**
29 **(b) During which the settlement agent provides the equity seller**
30 **with the HUD-1 settlement statement used by the United States De-**
31 **partment of Housing and Urban Development.**

1 **SECTION 11.** **The following are not equity purchasers for purposes**
2 **of sections 10 to 15 of this 2008 Act:**
3 **(1) A party to a deed in lieu of foreclosure.**
4 **(2) A creditors' committee, trustee or debtor in possession partic-**
5 **ipating in a proceeding under the jurisdiction of the United States**
6 **Bankruptcy Court.**
7 **(3) A family or living trust in which the equity seller is the benefi-**
8 **ciary or a member of the beneficiary.**
9 **SECTION 12.** **(1) A written contract is required for every equity**
10 **conveyance. An equity purchaser shall provide an equity seller with a**
11 **copy of the equity conveyance contract at least 24 hours before the**
12 **equity seller signs the contract. The equity conveyance contract must:**
13 **(a) Be written in a language that is spoken by the equity seller and**
14 **that was used in discussions between the equity seller and equity**
15 **purchaser to describe the equity purchaser's services or to negotiate**
16 **the terms of the contract and, except as provided in paragraph (f) of**
17 **this subsection, be printed in at least 12-point type;**
18 **(b) Contain the entire agreement of the parties;**
19 **(c) Be dated and personally signed by the equity seller and the eq-**
20 **uity purchaser and witnessed by a notary public;**
21 **(d) Contain on the first page the name and address, facsimile**
22 **number and electronic mail address of the settlement agent to which**
23 **a notice of cancellation may be delivered;**
24 **(e) Describe in detail the terms of the equity conveyance including:**
25 **(A) The name and business address, and any telephone number,**
26 **facsimile number and electronic mail address, of the person to whom**
27 **the equity seller will transfer an interest in the residence in foreclo-**
28 **sure;**
29 **(B) The address of the residence in foreclosure;**
30 **(C) The total consideration the equity purchaser and any other**
31 **party are to give as a result of the transfer of interest;**

(D) The time at which the interest is to be transferred to the equity purchaser or other person and the terms of the transfer;

(E) Any financial or legal obligations that the equity seller may remain subject to, including a description of any mortgages, liens or other obligations that will remain in place;

(F) A description of any services the equity purchaser will perform for the equity seller before or after the transfer of interest;

(G) A complete description:

(i) Of the terms of any post-transfer conveyance or agreement for a conveyance to the equity seller to allow the equity seller to remain in the home, including but not limited to the terms of any rental agreement, repurchase agreement, contract for deed, land installment contract or option to buy; and

(ii) Of any provisions for eviction or removal of the equity seller in the case of late payment;

(H) An explanation of how any repurchase price or fee associated with any conveyance of title or deed back to the equity seller will be calculated; and

(I) An explanation of the percentage of any net proceeds the equity seller is to receive if the equity seller does not exercise a right to receive back a conveyance of title or deed; and

(f) Contain, in immediate proximity to the space reserved for the equity seller's signature, a notice in substantially the following form and printed in at least 14-point boldfaced type:

NOTICE REQUIRED BY OREGON LAW

**THIS IS AN IMPORTANT LEGAL CONTRACT.
YOU ARE TRANSFERRING YOUR DEED OR TITLE
AND THIS COULD RESULT IN THE PERMANENT
LOSS OF YOUR HOME. CONTACT AN ATTORNEY**

OR OTHER PROFESSIONAL ADVISOR BEFORE SIGNING.

YOU MAY CANCEL THIS CONTRACT WITHIN THREE (3) BUSINESS DAYS.

If you cancel, you must repay money spent on your behalf under this contract. You have 60 days to repay the money. You must also pay any interest allowed by this contract, which may not exceed nine percent per year.

The law requires that this contract contain the entire agreement. You should not rely on any other written or oral agreement or promise.

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(2) An equity conveyance contract provision is void if the provision provides for an equity seller to:

(a) Waive any rights of the equity seller under sections 10 to 15 of this 2008 Act;

(b) Consent to jurisdiction for litigation in a state other than Oregon;

(c) Consent to a choice of laws provision that applies the laws of a state other than Oregon;

(d) Consent to venue in a county other than the county in which the residential real property is located; or

(e) Pay any costs or fees that the equity purchaser or a person acting in association with the equity purchaser incurred to enforce the contract, other than court costs and filing fees incurred in a successful circuit court action.

(3) An equity conveyance may not be carried out using a power of attorney from the equity seller.

<u>SECTION 13.</u> (1) In addition to any other cancellation or rescission right, an equity seller may cancel an equity conveyance contract as

provided under this section before the earlier of:

(a) Midnight of the third business day after the equity seller signs a document purporting to transfer an interest in the residence in foreclosure; or

(b) A foreclosure sale of the residence in foreclosure.

(2) If the equity seller gives a written notice of cancellation under this section by mail, the notice is effective upon the earlier of:

(a) Delivery to the physical address of the equity purchaser or settlement agent; or

(b) Actual receipt by the equity purchaser or settlement agent.

(3) If the equity seller gives a written notice of cancellation under this section by facsimile number or electronic mail, the notice is effective upon the earlier of:

(a) Delivery to the facsimile number or electronic mail address of the equity purchaser or the settlement agent; or

(b) Actual receipt by the equity purchaser or settlement agent.

(4) Proof of a transmission by the equity seller to the facsimile number or electronic mail address of the equity purchaser or of the settlement agent creates a rebuttable presumption that the notice of cancellation was delivered to the facsimile number or electronic mail address of the equity purchaser or settlement agent at the time of transmission.

(5) An equity seller who cancels an equity conveyance contract under this section shall, no later than 60 days after the cancellation is effective, repay any moneys paid or advanced under the contract by or on behalf of the equity purchaser. The equity seller shall also pay any interest stated in the equity conveyance contract, not to exceed nine percent per year.

(6) Failure of the equity seller to repay moneys as provided in subsection (5) of this section does not invalidate the cancellation of the equity conveyance contract.

(7) When both parties have signed the equity conveyance contract, the equity purchaser shall immediately provide the equity seller with a signed and dated copy of the contract and a cancellation form. The cancellation form must:

(a) Be in duplicate;

(b) Be on a separate sheet of paper attached to the contract;

(c) Be easily detachable; and

(d) Contain a statement in substantially the following form and be printed in at least 14-point boldfaced type:

HOW TO CANCEL

IF YOU DECIDE NOT TO TRANSFER YOUR DEED OR TITLE, YOU MAY CANCEL THIS CONTRACT.

YOU MUST DELIVER THE NOTICE OF CANCELLATION WITHIN THREE (3) BUSINESS DAYS OF WHEN YOU SIGNED THE CONTRACT.

Date of Contract: _____

To cancel, you must deliver a notice of cancellation before midnight on: _____ (date).

To cancel the contract, mail or deliver a signed and dated copy of this Notice of Cancellation, or write something saying you want to cancel, and send it to _____ (name of settlement agent) at_____ (address of settlement agent). You can cancel by fax or e-mail. Send any cancellation by fax to _____ or any cancellation by e-mail to _____.

If you cancel, you must repay any money spent on your behalf under this contract. You have 60 days to repay the money. Your repayment must include any interest allowed under the contract, which may not exceed nine percent per year.

NOTICE OF CANCELLATION

TO: _____ (name of settlement agent)

_____ (address, fax and e-mail of settlement agent)

I cancel the contract. Please return all signed documents to me.

Date: _____

Your (homeowner's) signature: _____

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(8) The period during which the equity seller may cancel the equity conveyance contract does not commence until the equity purchaser has complied with subsection (7) of this section.

(9) A notice of cancellation under this section is sufficient, however expressed, if the notice indicates the intent of the equity seller to cancel the equity conveyance contract. The equity conveyance contract may not require the equity seller to use the notice of cancellation form described in subsection (7) of this section.

(10) No later than 10 days after receipt of a notice of cancellation given in accordance with this section, the equity purchaser shall return, without condition, any original deed, title and contract, and any other document of transfer signed by the equity seller.

SECTION 14. (1) An equity purchaser shall:

(a) Prior to providing a copy of the equity conveyance contract to

1 **the equity seller under section 12 (1) of this 2008 Act:**
2 **(A) Verify and be able to demonstrate that the equity seller has or**
3 **will have a reasonable ability to pay for the subsequent reconveyance**
4 **of the residential real property interest back to the equity seller as**
5 **provided under the equity conveyance contract; or**
6 **(B) If the equity conveyance contract provides for a lease with an**
7 **option to repurchase the residential real property, verify and be able**
8 **to demonstrate that the equity seller has or will have a reasonable**
9 **ability to make the lease payments and repurchase the property within**
10 **the term of the option to repurchase.**
11 **(b) Arrange for the equity seller and the settlement agent to com-**
12 **plete a settlement conference before the equity seller transfers any**
13 **interest under the equity conveyance contract.**
14 **(c) Comply with the requirements of the federal Home Ownership**
15 **and Equity Protection Act (15 U.S.C. 1639) and its implementing regu-**
16 **lations for any equity conveyance in which the equity seller obtains a**
17 **vendee interest in a contract for deed.**
18 **(d) Ensure that title to, or other interest in, the residential real**
19 **property is timely reconveyed to the equity seller as provided under**
20 **the terms of the equity conveyance contract.**
21 **(e) If a residential real property is resold within 24 months after the**
22 **equity seller enters into an equity conveyance contract, pay the equity**
23 **seller cash or consideration in an amount equal to at least 82 percent**
24 **of the net proceeds from the resale no later than 15 days after the**
25 **receipt of cash or consideration from or on behalf of the purchasers**
26 **of the property.**
27 **(f) Timely record the memorandum of agreement required by sec-**
28 **tion 15 of this 2008 Act.**
29 **(2) An equity purchaser may not:**
30 **(a) As part of an equity conveyance contract, enter into repurchase**
31 **or lease terms that are commercially unreasonable or unfair to an**

1 **equity seller, or engage in any other unfair conduct.**
2 **(b) Represent, directly or indirectly, that the equity purchaser is**
3 **acting as a financial advisor or foreclosure consultant to the equity**
4 **seller or otherwise is acting on behalf of the equity seller.**
5 **(c) Make a false representation regarding the equity purchaser's**
6 **possession of professional credentials that indicate knowledge or ex-**
7 **pertise regarding real property transactions.**
8 **(d) Represent, directly or indirectly, that the equity purchaser is**
9 **assisting the equity seller in preventing a foreclosure, if the equity**
10 **conveyance contract does not provide for the equity seller to com-**
11 **pletely redeem the residential real property and regain title.**
12 **(e) Directly or by implication make a statement or engage in con-**
13 **duct that is false, deceptive, misleading or likely to cause confusion**
14 **or misunderstanding regarding an equity conveyance, including but**
15 **not limited to a statement or conduct with regard to:**
16 **(A) The value of a residence in foreclosure;**
17 **(B) The amount of proceeds the equity seller would receive after a**
18 **foreclosure sale;**
19 **(C) An equity conveyance contract term; or**
20 **(D) The equity seller's rights or obligations incident to or arising**
21 **out of the equity conveyance.**
22 **(f) Before the equity seller's right to cancel an equity conveyance**
23 **contract has expired:**
24 **(A) Record or cause to be recorded an instrument of conveyance**
25 **or other document the equity seller signed;**
26 **(B) Transfer or purport to transfer any interest in the residential**
27 **real property to any third party; or**
28 **(C) Encumber or purport to encumber any interest in the residen-**
29 **tial real property with any third party.**
30 **<u>SECTION 15.</u> (1) For purposes of determining whether an equity**
31 **purchaser has violated section 14 (1)(a) of this 2008 Act, there is a**

1 **rebuttable presumption that:**
2 **(a) An equity seller has or will have a reasonable ability to pay for**
3 **a subsequent reconveyance of a residential real property if the equity**
4 **seller's payments for primary housing expenses and regular principal**
5 **and interest payments on other personal debt, on a monthly basis, do**
6 **not exceed 60 percent of the equity seller's monthly gross income.**
7 **(b) The equity purchaser has failed to verify that the equity seller**
8 **has a reasonable ability to pay for a subsequent reconveyance of a**
9 **property if the equity purchaser has not obtained supporting docu-**
10 **ments other than a statement by the equity seller of assets, liabilities**
11 **and income.**
12 **(2) If a property is resold within 24 months after an equity seller**
13 **enters into an equity conveyance contract, at the time of making**
14 **payment to the equity seller under section 14 (1)(e) of this 2008 Act,**
15 **the equity purchaser shall provide the equity seller with a detailed**
16 **accounting of the basis for the payment amount. The accounting shall**
17 **include detailed documentation of expenses and other consideration**
18 **paid by the equity purchaser and deducted from the resale price.**
19 **(3) A bona fide purchaser that enters into a transaction with an**
20 **equity seller or equity purchaser receives good title to the property,**
21 **free and clear of:**
22 **(a) The rights of the parties to an equity conveyance contract or a**
23 **memorandum of agreement; or**
24 **(b) Any cancellation of the equity conveyance contract.**
25 **(4) Sections 10 to 15 of this 2008 Act do not impose a duty on a**
26 **property purchaser, title insurer or title insurance producer regarding**
27 **the application of the proceeds of a resale of property by an equity**
28 **purchaser.**
29 **(5) At the time of presenting an equity conveyance for recording,**
30 **the equity purchaser shall present a memorandum of agreement for**
31 **recording in the county where the residential real property is located.**

The memorandum of agreement must be signed by the equity purchaser and the equity seller, witnessed by a notary and in substantially the following form:

MEMORANDUM OF AGREEMENT

DATED: _____

SELLER NAME (print): _____

PURCHASER NAME (print): _____

EXPIRATION DATE: _____, unless otherwise extended by written agreement between the parties.

PROPERTY ADDRESS: (legal description) _____

TERMS OF AGREEMENT: _____

TRUE AND ACTUAL CONSIDERATION IS: _____

SELLER SIGNATURE: _____

PURCHASER SIGNATURE: _____

SECTION 16. Sections 10 to 15 of this 2008 Act do not preclude an equity seller from:

(1) Seeking to have a transfer of interest under an equity conveyance declared to be an equitable mortgage; or

(2) Asserting any claim against an equity purchaser for an equitable mortgage.

1 **SECTION 17.** ORS 646.607 is amended to read:

2 646.607. A person engages in an unlawful practice when in the course of
3 the person's business, vocation or occupation the person:

4 (1) Employs any unconscionable tactic in connection with the sale, rental
5 or other disposition of real estate, goods or services, or collection or
6 enforcement of an obligation;

7 (2) Fails to deliver all or any portion of real estate, goods or services as
8 promised, and upon request of the customer, fails to refund any money that
9 has been received from the customer that was for the purchase of the
10 undelivered real estate, goods or services and that is not retained by the
11 seller pursuant to any right, claim or defense asserted in good faith. This
12 subsection does not create a warranty obligation and does not apply to a
13 dispute over the quality of real estate, goods or services delivered to a cus-
14 tomer; [*or*]

15 (3) Violates ORS 401.107 (1) to (4)**; or**

16 **(4) Violates a provision of sections 10 to 15 of this 2008 Act.**

17 **SECTION 18. Violation of a provision of sections 2 to 6 or 10 to 15**
18 **of this 2008 Act is a misdemeanor punishable by not more than one**
19 **year's imprisonment, a fine of not more than $10,000, or both.**

20 **SECTION 19. Sections 20 and 21 of this 2008 Act are added to and**
21 **made a part of ORS 86.705 to 86.795.**

22 **SECTION 20. The trustee of a residential trust deed shall maintain**
23 **a toll-free telephone number during regular business hours that will**
24 **provide the grantor of the trust deed with access to:**

25 **(1) Details regarding the grantor's loan delinquency and repayment**
26 **information; and**

27 **(2) Person-to-person consultation regarding the grantor's payment**
28 **and loan term negotiation options.**

29 **SECTION 21. (1) If the trustee of a residential trust deed records a**
30 **notice of default for the residential real property, on or before the date**
31 **that the trustee serves or mails the notice of sale required under ORS**

86.740, the trustee shall give a notice to the grantor of the residential trust deed by first class mail with return receipt requested. Subject to any rules adopted under subsection (2) of this section, the notice must be in substantially the following form and printed in at least 14-point type:

NOTICE:

YOU ARE IN DANGER OF LOSING
YOUR PROPERTY IF YOU DO NOT
TAKE ACTION IMMEDIATELY

This notice is about your mortgage loan on your property at _____ (address).

Your lender has decided to sell this property because the money due on your mortgage loan has not been paid on time or because you have failed to fulfill some other obligation to your lender. This is sometimes called "foreclosure."

In order to bring your mortgage loan current, the amount you need to pay as of _____ (date) is $_____.

By law, your lender has to provide you with details about the amount you owe, if you ask. If you want these details, you can call your lender or the trustee toll-free at _____. You may also get these details by sending a request by certified mail to: _____.

THIS IS WHEN AND WHERE
YOUR PROPERTY WILL BE SOLD
IF YOU DO NOT TAKE ACTION:

Date and time: _____, 2_____ at _____

Place: _____

THIS IS WHAT YOU CAN DO
TO STOP THE SALE:

1. You can pay the amount past due or correct any other default, up to five days before the sale.
2. You can refinance or otherwise pay off the loan in full anytime before the sale.
3. You can call your loan servicer at _____ to find out if your lender is willing to give you more time or change the terms of your loan.
4. You can sell your home, provided the sale price is enough to pay what you owe.

There are government agencies and nonprofit organizations that can give you information about foreclosure and help you decide what to do. For the name and telephone number of an organization near you, please call the statewide telephone contact number at _____. You may also wish to talk to a lawyer. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at _____ or toll-free in Oregon at _____ or you may visit its website at: _____. Legal assistance may be available if you have a low income and meet federal poverty guidelines. For more information and a directory of legal aid programs, go to_____.

WARNING: You may get offers from people who tell you they can help you keep your property. You should be careful about those offers.

Make sure you understand any papers you are asked to sign. If you have any questions, talk to a lawyer or one of the organizations mentioned above before signing.

DATED: _____, 2_____

Trustee name: _____ (print)

Trustee signature: _____

Trustee telephone number: _____

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(2) The Department of Consumer and Business Services may adopt rules prescribing the format, font size and other physical characteristics of the notice form set forth in subsection (1) of this section. The department shall adopt rules specifying the statewide resource telephone contact numbers and website addresses the trustee is to insert in completing the notice.

(3) When filling blanks in the notice form set forth in subsection (1) of this section, the trustee shall include, stated in plain language:

(a) The amount of payment that is needed to bring the mortgage loan current as of the date the trustee mails the notice; and

(b) A telephone number that is toll-free from the location of the residential property that will provide the grantor with information about the amount owed, including but not limited to information of the type described in section 20 (1) of this 2008 Act.

(4) If the notice required by subsection (1) of this section is mailed in the same envelope as other materials, the trustee shall place the notice required by subsection (1) of this section on top of all other materials in the envelope.

(5) If the trustee knows that the grantor is not the occupant of the

1 **residential real property, in addition to sending the notice required by**
2 **subsection (1) of this section to the grantor, the trustee shall send a**
3 **copy of the notice to the occupant of the property by first class mail**
4 **with return receipt requested.**

5 **SECTION 22. The Department of Consumer and Business Services**
6 **may assess a civil penalty, not to exceed $500, for a violation of section**
7 **20 or 21 of this 2008 Act.**

8 **SECTION 23. (1) Sections 2 to 6 of this 2008 Act apply to agreements**
9 **for services by a foreclosure consultant entered into by homeowners**
10 **90 or more days after the effective date of this 2008 Act.**

11 **(2) Sections 10 to 15 of this 2008 Act apply to agreements for equity**
12 **conveyances entered into by equity sellers seven or more days after**
13 **the effective date of this 2008 Act.**

14 **(3) Section 20 of this 2008 Act applies to residential trust deeds cre-**
15 **ated on or after the effective date of this 2008 Act.**

16 **(4) Section 21 of this 2008 Act applies to residential trust deed**
17 **properties for which a notice of sale under ORS 86.740 is sent by the**
18 **trustee 90 or more days after the effective date of this 2008 Act.**

19 **SECTION 24. This 2008 Act being necessary for the immediate**
20 **preservation of the public peace, health and safety, an emergency is**
21 **declared to exist, and this 2008 Act takes effect on its passage.**
22
