

House Bill 3190

Sponsored by Representative MEEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Repeals prohibition on pledging homestead as security for reverse mortgage in property tax deferral program for seniors and individuals with disabilities. Provides that liens for deferred property taxes are prior to lien for reverse mortgage.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to homestead property tax deferral; amending ORS 86A.196, 311.673 and 311.700; and pre-
3 scribing an effective date.

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

5 **SECTION 1.** ORS 311.700 is amended to read:

6 311.700. *[(1)]* A clause or statement in a mortgage trust deed or land sale contract executed after
7 September 9, 1971, that prohibits the owner from applying for deferral of homestead property taxes
8 provided in ORS 311.666 to 311.701 is void.

9 *[(2) A homestead on which amounts deferred under ORS 311.666 to 311.701 remain outstanding*
10 *may not be pledged as security for a reverse mortgage by any person.]*

11 **SECTION 2.** ORS 311.673 is amended to read:

12 311.673. (1)(a) The Department of Revenue shall have a lien against tax-deferred property for
13 payment of deferred taxes plus interest on the deferred taxes and any fees paid by the department
14 in connection with the filing, recording, release or satisfaction of the lien. The liens for deferred
15 taxes shall attach to the property on July 1 of the year in which the taxes were assessed.

16 (b) The deferred property tax liens shall have the same priority as other real property tax liens
17 except that the lien of mortgages **other than reverse mortgages**, trust deeds or security interests
18 that is filed, recorded or noted on any certificate of title or in any record maintained by the De-
19 partment of Consumer and Business Services pursuant to ORS 446.566 to 446.646 prior in time to the
20 attachment of the lien for deferred taxes shall be prior to the liens for deferred taxes. **The deferred**
21 **property tax liens shall be prior to the lien of reverse mortgages.**

22 (2) The deferred property tax lien may be foreclosed by the department as if it were a purchase
23 money mortgage under ORS chapter 88. The court may award reasonable attorney fees to the de-
24 partment if the department prevails in a foreclosure action under this section. The court may award
25 reasonable attorney fees to a defendant who prevails in a foreclosure action under this section if
26 the court determines that the department had no objectively reasonable basis for asserting the claim
27 or no reasonable basis for appealing an adverse decision of the trial court.

28 (3) Receipts from foreclosure proceedings shall be credited in the same manner as other repay-
29 ments of deferred property taxes under ORS 311.701.

30 (4) This section applies only to deferred property tax liens arising prior to October 3, 1989.

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.

SECTION 3. ORS 86A.196 is amended to read:

86A.196. [(1) *Before entering into an agreement with a borrower for a reverse mortgage, the lender shall notify the borrower in writing of the provisions of ORS 311.700 (2).*]

[(2)(a)] (1) In any advertisement, solicitation or communication that a lender or an agent or affiliate of the lender intends as an inducement for a person to apply for or enter into a contract for a reverse mortgage, the lender or the agent or affiliate of the lender shall include a clear and conspicuous summary of the terms of the reverse mortgage. The summary must, at a minimum, disclose these provisions of the reverse mortgage loan contract to the extent that the contract includes the provision:

[(A)] (a) At the conclusion of the term of the reverse mortgage loan contract, some or all of the equity in the property that is the subject of the reverse mortgage no longer belongs to the person and the person may need to sell or transfer the property to repay the proceeds of the reverse mortgage from the proceeds of the sale or transfer or the person must otherwise repay the reverse mortgage with interest from the person’s other assets.

[(B)] (b) The lender will charge an origination fee, a mortgage insurance premium, closing costs or servicing fees for the reverse mortgage, all or any of which the lender will add to the balance of the reverse mortgage loan.

[(C)] (c) The balance of the reverse mortgage loan grows over time and the lender charges interest on the outstanding loan balance.

[(D)] (d) The person retains title to the property that is the subject of the reverse mortgage until the person sells or transfers the property and is therefore responsible for paying property taxes, insurance, maintenance and related taxes. Failing to pay these amounts may cause the reverse mortgage loan to become due immediately.

[(E)] (e) Interest on a reverse mortgage is not deductible from the person’s income tax return until the person repays all or part of the reverse mortgage loan.

[(b)] (2) As used in [paragraph (a) of this subsection] **subsection (1) of this section:**

[(A)] (a) “Clear and conspicuous” means:

[(i)] (A) In larger type than the surrounding text or in a type, color or font that contrasts with surrounding text of the same size or set off from surrounding text by symbols or other marks in a manner that draws attention; or

[(ii)] (B) Spoken in a volume and cadence that is sufficient to enable a reasonable person to hear and understand.

[(B)] (b) “Reverse mortgage” means a residential mortgage transaction in which the lender provides loan proceeds to a borrower in a lump sum or in monthly installments with the expectation that the borrower will repay the loan from the proceeds of a sale or transfer of the real property that secures the loan.

[(c)] (3) [Paragraphs (a) and (b) of this subsection] **Subsections (1) and (2) of this section** do not apply to a financial institution as defined in ORS 706.008, a licensee as defined in ORS 725.010 or a mortgage banker or mortgage broker that is licensed under ORS 86A.106.

SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.