TITLE 9

MORTGAGES AND LIENS

Chapter 86. Mortgages; Trust Deeds
87. Statutory Liens
88. Foreclosure of Liens Generally

Chapter 86

1967 REPLACEMENT PART
(1971 reprint)

Mortgages; Trust Deeds

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REAL PROPERTY MORTGAGES

86.010 Nature of mortgagee's interest. A mortgage of real property is not a conveyance so as to enable the owner of the mortgage to recover possession of the property without a foreclosure and sale. This section is not intended as a limitation upon the right of the owner of real property to mortgage or pledge the rents and profits thereof, nor as prohibiting the mortgagee or pledgee of such rents and profits, or any trustee under a mortgage or trust deed from entering into possession of any real property, other than farm lands or the homestead of the mortgagor or his successor in interest, for the purpose of operating the same and collecting the rents and profits thereof for application in accordance with the provisions of the mortgage or trust deed or other instrument creating the lien, nor as any limitation upon the power of a court of equity to appoint a receiver to take charge of the property and collect the rents and profits thereof.

86.020 Covenant to pay money not implied. No mortgage shall be construed as implying a covenant for the payment of the sum thereby secured. When there is no express covenant for such payment contained in the mortgage, and no bond or other separate instrument to secure such payment shall have been given, the remedies of the mortgagee shall be confined to the lands mentioned in the mortgage.

86.030 Absolute deed as a mortgage. When a deed purports to be an absolute conveyance in terms, but is made or intended to be made defeasible by a deed of defeasance or other instrument, the original conveyance shall not be thereby defeated or affected as against any person other than the maker of the defeasance, or his heirs or devisees, or persons having actual notice thereof, unless the instrument of defeasance is recorded with the recording officer of the county where the lands lie.

86.040 Improvements on mortgaged lands. No person shall sell, dispose of, remove or damage any building or other improvements upon mortgaged lands. All such improvements are deemed a part of the mortgaged property and are subject to the mortgage lien. When any improvements are removed from the mortgaged premises in violation of this section, the mortgagee may follow and regain possession of such improvements wherever found or may recover the reasonable value thereof from the person removing them.

86.050 Payment of taxes and other charges by mortgagee. Whenever a mortgagor fails to pay when due any taxes, assessments, interest on prior mortgages, insurance premiums or other charges necessary to be paid for the protection of the lien of a mortgagee, the mortgagee may pay the same, and such payments shall be added to the mortgage debt and secured by the mortgage held by the mortgagee, and shall bear interest at the same rate as specified in the mortgage. This section applies only to mortgages executed after June 3, 1929, and does not affect the right of parties to specifically contract otherwise than as provided in this section.

86.060 Assignment of mortgage. Mortgages may be assigned by an instrument in writing, executed and acknowledged with the same formality as required in deeds and mortgages of real property, and recorded in the records of mortgages of the county where the land is situated.

86.070 [Repealed by 1965 c.252 §1]

86.080 Record of assignment not notice to mortgagor. The recording of the assignment of a mortgage is not of itself notice of such assignment to the mortgagor, his heirs or personal representatives, so as to invalidate a payment made by any of them to the mortgagee.

86.090 [Repealed by 1965 c.252 §1]

86.100 Discharge of record on deed of release. Any mortgage shall be discharged of record whenever there is presented to the recording officer a certificate executed by the mortgagee, his personal representatives or assigns, acknowledged or proved and certified as prescribed by law to entitle conveyances to be recorded, specifying that such mortgage has been paid or otherwise discharged. Every such certificate, and the proof or acknowledgment thereof, shall be recorded at full length.
[Amended by 1965 c.252 §2]

86.110 Discharge of record by owner and holder of mortgage note who is not the mortgagee of record. (1) Whenever a promissory note secured by mortgage on real property is transferred by indorsement without a formal assignment of the mortgage, and the mortgage is recorded, the

mortgage, upon payment of the promissory note, may be discharged of record by the owner and holder of the promissory note making and filing with the recording officer in whose custody the record of such mortgage is, a certificate, verified by his oath, declaring, in substance, that he is the owner and holder of the note secured by said mortgage by indorsement of the mortgagee, and that the note has been fully paid, and proving that fact to the satisfaction of the recording officer, and delivering the original note to such officer.

(2) Upon receiving the certificate and original note, the recording officer shall enter them in full length upon the record book of mortgages, and such entry shall have the same effect as a deed of release of the mortgagee duly acknowledged and recorded.

[Amended by 1965 c.252 §3]

86.120 Discharge of mortgage on real property; effect of discharge. No mortgage upon real property shall be discharged except as provided in ORS 86.110 or by the person appearing upon the records of the county where the mortgage is recorded to be the owner thereof. A discharge of the mortgage by such person shall operate to free the land described in the mortgage from the lien of the mortgage as against all subsequent purchasers and incumbrances for value and without notice.

86.130 Discharge by foreign executors, administrators and guardians. Foreign executors, administrators and guardians may discharge mortgages upon the records of any county upon recording with the recording officer of the county in which the mortgage is recorded, a certified and authenticated copy of their letters testamentary, or of administration, or of guardianship. The certificate or authentication shall include a statement that the letters have not been revoked, and such certificate shall be recorded in the mortgage records.

86.140 Liability of mortgagee for failure to discharge mortgage. If any mortgagee or his personal representative or assignee, after full performance of the condition of the mortgage before or after a breach thereof, shall, within 30 days after being thereto requested, and after tender of his reasonable charges, fail to discharge the same, or to execute and acknowledge a certificate of discharge or release thereof, he shall be liable to the mortgagor, his heirs or assigns, in the sum of $100 damages and also for all actual damages occasioned by such failure, to be recovered in an action at law. The owner and holder of the promissory note referred to in ORS 86.110 is deemed the personal representative of the mortgagee for the purposes of this section.

[Amended by 1955 c.29 §1; 1955 c.512 §1]

86.150 Loan agreements and promissory notes to state maximum prepayment privilege penalty. (1) Any person making a loan having a loan period of more than three years secured by a mortgage or by a trust deed on real property located in this state shall, with respect to such loan, expressly and clearly state on the loan agreement and promissory note any maximum prepayment privilege penalty. The statement shall include the maximum prepayment penalty applicable for prepayment during the first year of the loan period and for each year thereafter.

(2) Violation of subsection (1) of this section with respect to a loan agreement or promissory note shall render any prepayment privilege penalty provision in the agreement void.

(3) "Loan agreement" as used in this section means a written document issued in connection with a particular loan which sets forth the terms upon which the loan will be made. "Loan agreement" does not include a mortgage or trust deed which secures a promissory note. Nothing in this section shall be deemed to require a lender to issue a loan agreement.

(4) This section does not apply to any loan agreement executed on or before September 13, 1967.

[1967 c.336 §§1, 2]

86.310 [Amended by 1955 c.21 §1; repealed by 1961 c.726 §427]

86.315 [1953 c.700 §2; repealed by 1961 c.726 §427]

86.320 [Repealed by 1961 c.726 §427]

86.330 [Repealed by 1961 c.726 §427]

86.340 [Repealed by 1961 c.726 §427]

86.350 [Amended by 1955 c.182 §1; repealed by 1961 c.726 §427]

86.360 [Repealed by 1961 c.726 §427]

86.370 [Amended by 1957 c.404 §1; repealed by 1961 c.726 §427]

86.380 [Repealed by 1961 c.726 §427]

86.390 [Repealed by 1961 c.726 §427]

86.400 [Repealed by 1961 c.726 §427]

CHATTEL MORTGAGES

86.405 Secretary of State to furnish statement of mortgages filed before September 1, 1963; fee. Upon the payment of a fee of 50 cents for each name to be searched for chattel mortgages filed under former ORS 86.370 or 86.390, prior to September 1, 1963, the Secretary of State shall furnish to any person applying therefor a statement of any mortgages noted on the indexes created under former ORS 86.380, or if no mortgages are noted, a statement to that effect. All such fees received by the Secretary of State shall be promptly paid to the State Treasurer and placed in the General Fund.
[1961 c.726 §409]

86.410 [Repealed by 1961 c.726 §427]

86.420 [Repealed by 1961 c.726 §427]

86.430 [Repealed by 1961 c.726 §427]

86.440 Discharge of mortgage recorded or filed with county recording officer. (1) Whenever any mortgage recorded or filed under the provisions of ORS 86.350 is paid or otherwise satisfied, it shall be discharged by the indorsing by the owner of record upon the original instrument, if filed, or upon the margin of the record thereof, if recorded, of a notation, attested by the county recording officer, of such discharge, or by the filing with the recording officer of a certificate of such owner, executed and acknowledged with the same formalities as are prerequisite to the filing or recording of any such mortgage, showing the date of execution, date of filing or recording, and file number or volume and page of the record thereof, and that such mortgage has been fully discharged.

(2) Upon receipt of the fee prescribed by law the recording officer shall prepare such notation and attest the execution of it, or file such certificate in an appropriate place in his office. Upon the making of the entry or the filing of the certificate, the recording officer shall deliver the original mortgage to the mortgagor, his personal representatives or assigns, if such mortgage shall have been filed, and shall enter the word "satisfied," with the date thereof, opposite each entry of the mortgage in the index.

86.450 [Repealed by 1961 c.726 §427]

86.460 Discharge of mortgage filed with Secretary of State. In the event of the satisfaction or release of any chattel mortgage, a certified copy of which has been filed with the Secretary of State prior to September 1, 1963; the person so satisfying or releasing the mortgage shall send a duly executed discharge or certified copy thereof, with a fee of 25 cents, to the Secretary of State, who shall note such discharge in an appropriate column of the index kept by him. All such fees received by the Secretary of State shall be promptly paid to the State Treasurer and placed in the General Fund.
[Amended by 1961 c.726 §407]

86.470 Discharge, assignment and foreclosure of mortgages on chattels registered and licensed by Motor Vehicles Division. The recording officer of counties having less than 50,000 population on the last day of each calendar month, and the recording officer of counties having more than 50,000 population on the last day of each calendar week, shall notify the Motor Vehicles Division of the Department of Transportation, upon forms to be provided by the department, of the partial or full satisfaction, assignment or foreclosure during such period of all mortgages theretofore certified to the department prior to September 1, 1963, as formerly provided in ORS 86.390. The notice shall completely identify the mortgage so satisfied, assigned or foreclosed; and the department thereupon shall note on each index margin such satisfaction, assignment or foreclosure.
[Amended by 1961 c.726 §408]

86.480 [Repealed by 1961 c.726 §427]

86.490 [Repealed by 1961 c.726 §427]

86.500 [Amended by 1955 c.30 §1; repealed by 1961 c.726 §427]

86.510 [Repealed by 1961 c.726 §427]

86.520 [Repealed by 1961 c.726 §427]

INVESTMENTS; FEDERAL HOUSING ADMINISTRATOR

86.610 Power of banks, fiduciaries and others to make loans secured by property insured by Federal Housing Administrator. Banks, trust companies, savings and loan associations, trustees, guardians, executors, administrators, other fiduciaries and all other persons, associations and corporations, subject to the laws of this state, may make such loans, secured by real property or leasehold, as the Federal Housing Administrator insures or makes a commitment to insure, and may obtain such insurance.
[Amended by 1967 c.359 §678]

86.620 Investment of funds of banks, fiduciaries and others in bonds and mortgages accepted by Federal Housing Administrator, debentures issued by him, and obligations of national mortgage associations. Banks, trust companies, savings and loan associations, trustees, guardians, executors, administrators, other fiduciaries and all other persons, associations and corporations, subject to the laws of this state, may invest their funds, and the moneys in their custody or possession, eligible for investment, in bonds and mortgages on real property insured by the Federal Housing Administrator, in debentures issued by the Federal Housing Administrator, and in obligations of national mortgage associations.
[Amended by 1967 c.359 §679]

86.630 Eligibility of securities described in ORS 86.620 as security for deposits, investment or reserve of securities. Whenever, by statute, collateral is required as security for the deposit of public or other funds, or deposits are required to be made with any public official or department, or an investment of capital or surplus, or a reserve or other fund is required to be maintained consisting of designated securities, the securities described in ORS 86.620 shall be eligible for such purposes.

86.640 Applicability of other laws requiring security or regulating loans and investments. No law of this state requiring security upon which loans or investments may be made, or prescribing the nature, amount or form of such security, or prescribing or limiting the period for which loans or investments may be made, shall apply to loans or investments made pursuant to ORS 86.610 and 86.620.

TRUST DEEDS

86.705 Definitions for ORS 86.705 to 86.795. As used in ORS 86.705 to 86.795, unless the context requires otherwise:

(1) "Beneficiary" means the person named or otherwise designated in a trust deed as the person for whose benefit a trust deed is given, or his successor in interest, and who shall not be the trustee.

(2) "Grantor" means the person conveying real property by a trust deed as security for the performance of an obligation.

(3) "Trust deed" means a deed executed in conformity with ORS 86.705 to 86.795, and conveying real property to a trustee in trust to secure the performance of an obligation owed by the grantor or other person named in the deed to a beneficiary.

(4) "Trustee" means a person to whom the legal title to real property is conveyed by a trust deed, or his successor in interest.

(5) "Three acres" means three acres of land. Where the trust deed states that the real property involved does not exceed three acres, such statement shall be binding upon all parties and conclusive as to compliance with the provisions of ORS 86.705 to 86.795 relative to the power to make a transfer, trust and power of sale. If by a bona fide mistake of either party the property slightly exceeds three acres, the mistake shall not make the trust deed void.
[1959 c.625 §1; 1961 c.616 §1]

86.710 Trust deeds authorized to secure performance of an obligation; methods of foreclosure after breach. Transfers in trust of any estate in real property not exceeding three acres may be made to secure the performance of an obligation of a grantor, or any other person named in the deed, to a beneficiary. Where any transfer in trust of any estate in real property is made pursuant to the provisions of ORS 86.705 to 86.795 to secure the performance of an obligation, a power of sale is conferred upon the trustee. The power of sale may be exercised after a breach of the obligation for which the transfer is security; and a trust deed, executed in conformity with ORS 86.705 to 86.795, may be foreclosed by advertisement and sale in the manner provided in ORS 86.705 to 86.795, or, at the option of the beneficiary, may be foreclosed by the beneficiary as provided by law for the foreclosure of mortgages on real property.
[1959 c.625 §2; 1961 c.616 §2; 1965 c.457 §1]

86.715 Trust deed deemed to be mortgage on real property. A trust deed is deemed to be a mortgage on real property and is subject to all laws relating to mortgages on real property except to the extent that such laws are inconsistent with the provisions of ORS 86.705 to 86.795, in which event the provisions of ORS 86.705 to 86.795 shall control. For the purpose of applying the mortgage laws, the grantor in a trust deed is deemed the mortgagor and the beneficiary is deemed the mortgagee.
[1959 c.625 §21]

86.720 Reconveyance upon performance; liability for failure to reconvey. Upon performance of the obligation secured by the trust deed, the trustee, upon written request of the beneficiary, shall reconvey the estate of real property described in the trust deed to the grantor. In the event the obligation is performed and the beneficiary refuses to request reconveyance or the trustee refuses to reconvey the property, the beneficiary or trustee so refusing shall be liable as provided by ORS 86.140 in the case of refusal to execute a discharge or satisfaction of a mortgage on real property.
[1959 c.625 §18]

86.725 Time within which foreclosure must be commenced. The foreclosure of a trust deed by advertisement and sale or the foreclosure of a trust deed by judicial procedure shall be commenced within the time, including extensions, provided by ORS 88.110 and 88.120 for the foreclosure of a mortgage on real property.
[1959 c.625 §20]

86.730 [1959 c.625 §§17, 22; repealed by 1961 c.616 §8]

86.735 Foreclosure by advertisement and sale. The trustee may foreclose a trust deed by advertisement and sale in the manner provided in ORS 86.740 to 86.760 if:

(1) The trust deed, any assignments of the trust deed by the trustee or the beneficiary and any appointment of a successor trustee are recorded in the mortgage records in the counties in which the property described in the deed is situated; and

(2) There is a default by the grantor or other person owing an obligation, the performance of which is secured by the trust deed, or by their successors in interest with respect to any provision in the deed which authorizes sale in the event of default of such provision; and

(3) The trustee or beneficiary has filed for record in the county clerk's office in each county where the trust property, or some part of it, is situated, a notice of default containing the information required by ORS 86.745 and containing the trustee's or beneficiary's election to sell the property to satisfy the obligation; and

(4) No action, suit or proceeding has been instituted to recover the debt or any part of it then remaining secured by the trust deed, or, if such action or proceeding has been instituted, the action or proceeding has been dismissed.
[1959 c.625 §§4, 5; 1965 c.457 §2]

86.740 Notice of sale to be mailed to certain persons. (1) Subsequent to recording notice of default as provided in ORS 86.735 and at least 120 days before the day fixed by the trustee for the trustee's sale, notice of the sale shall be given by registered or certified mail to the last-known address of the following persons or their legal representatives, if any:

(a) The grantor in the trust deed.

(b) Any successor in interest to the grantor whose interest appears of record, or of whose interest the trustee or the beneficiary has actual notice.

(c) Any person, including the Department of Revenue or any other state agency, having a lien or interest subsequent to the interest of the trustee in the trust deed where such lien or interest appears of record or where the trustee or the beneficiary has actual notice of such lien or interest.

(d) Any person requesting notice as provided in ORS 86.785.

(2) The disability, insanity or death of any person to whom notice of sale must be given under subsection (1) of this section shall not delay or impair in any way the trustee's right under a trust deed to foreclose under the deed. If the disability, insanity or death occurs prior to the recording of notice of default, the notice shall be given instead to the legal guardian or the administrator or executor of the person, as the case may be, in the manner and by the time set forth in subsection (1) of this section. If the disability, insanity or death occurs on or after the recording of notice of default, the trustee shall, if and when he has knowledge of the disability, insanity or death, promptly give the legal guardian or the administrator or executor of the person, as the case may be, the notice provided in ORS 86.745. Such notice shall be given by registered or certified mail to the last-known address of the legal guardian or administrator or executor.
[1959 c.625 §6; 1961 c.616 §3; 1965 c.457 §3]

86.745 Contents of notice of sale. The notice of sale shall set forth:

(1) The names of the grantor, trustee and beneficiary in the trust deed.

(2) A description of the property covered by the trust deed.

(3) The book and page of the mortgage records where the trust deed is recorded.

(4) The default for which the foreclosure is made.

(5) The sum owing on the obligation secured by the trust deed.

(6) The election to sell the property to satisfy the obligation.

(7) The date, time and place of the sale, which shall be held at a designated time after 9 a.m. and before 4 p.m. Standard Time as established by ORS 187.110 and at a designated place in the county or one of the counties where the property is situated.

(8) The right under ORS 86.760 to have the proceeding dismissed and the trust deed reinstated by payment of the entire amount then due, together with costs, trustee's and attorney's fees, at any time prior to five days before the date set for the sale.

[1959 c.625 §7; 1961 c.616 §4; 1965 c.457 §4]

86.750 Service of notice; publication of notice; recording proof of compliance. (1) If the property described in the trust deed is occupied by the grantor in the trust deed, by a successor in interest to the grantor whose interest appears of record, or of whose interest the trustee or the beneficiary has actual notice, or by a lessee, the notice prescribed in ORS 86.745 shall be personally served upon him in the manner in which a summons is served at least 120 days before the day fixed by the trustee for the trustee's sale.

(2) A copy of the notice of sale shall be published in a newspaper of general circulation in each of the counties in which the property is situated once a week for four successive weeks. The last publication shall be made at least 20 days prior to the date of sale.

(3) Prior to the date of sale, an affidavit of mailing notice of sale, proof of personal service (if any), and an affidavit of publication of notice of sale shall be recorded in the mortgage records in the county or counties in which the property described in the deed is situated.

[1959 c.625 §8; 1961 c.616 §5; 1965 c.457 §5]

86.755 Sale of property. (1) The sale shall be held on the date and at the time and place designated in the notice of sale. The trustee may sell the property in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash. Any person, including the beneficiary under the trust deed, but excluding the trustee, may bid at the trustee's sale. The attorney for the trustee may conduct the sale and act in the sale as the auctioneer of the trustee.

(2) If at the time designated in the notice of sale, the trustee, or the attorney conducting the sale, deems it for the advantage of all concerned, to postpone the sale, or is otherwise prevented from making the sale, he may postpone the sale not exceeding one week next after the day appointed and so from time to time for like cause, giving notice of adjournment by public proclamation made at the time and place designated in the said notice of sale.

(3) The purchaser shall pay at the time of sale the price bid, and, upon receipt of payment, the trustee shall execute and deliver the trustee's deed to the purchaser.

(4) The trustee's deed shall convey to the purchaser the interest in the property which the grantor had, or had the power to convey, at the time of the execution by him of the trust deed, together with any interest the grantor or his successors in interest acquire after the execution of the trust deed.

(5) The purchaser at the trustee's sale shall be entitled to possession of the property on the 10th day following the sale, and any persons remaining in possession after that day under any interest, except one prior to the trust deed, shall be deemed to be tenants at sufferance.

[1959 c.625 §9; 1965 c.457 §6]

86.760 Discontinuance of foreclosure proceedings when entire amount of default paid. Whenever all or a portion of any obligation secured by a trust deed has become due by reason of a default of any part of that obligation, including taxes, assessments, premiums for insurance or advances made by a beneficiary in accordance with the terms of the trust deed, the grantor or his successor in interest in the trust property, or any part of it, any beneficiary under a subordinate trust deed or any person having a subordinate lien or encumbrance of record on the property, at any time prior to five days before the date set by the trustee for the trustee's sale, if the power of sale therein is to be exercised, may pay to the beneficiary or his successors in interest, respectively, the entire amount then due under the terms of the trust deed and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of the obligation and trustee's and attorney's fees not exceeding $50 each) other

than such portion of the principal as would not then be due had no default occurred, and thereby cure the default. After payment of this amount, all proceedings hereunder shall be dismissed by the trustee, and the obligation and trust deed shall be reinstated and shall remain in force the same as if no acceleration had occurred.
[1959 c.625 §10; 1961 c.616 §6; 1965 c.457 §7]

86.765 Disposition of proceeds of sale. The trustee shall apply the proceeds of the trustee's sale as follows:

(1) To the expenses of the sale, including the compensation of the trustee, and a reasonable charge by the attorney.

(2) To the obligation secured by the trust deed.

(3) To all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority.

(4) The surplus, if any, to the grantor of the trust deed or to his successor in interest entitled to such surplus.
[1959 c.625 §11; 1965 c.457 §8]

86.770 Effect of sale. (1) A sale made by a trustee under ORS 86.705 to 86.795 shall foreclose and terminate all interest in the property covered by the trust deed of all persons to whom notice is given under ORS 86.740 and 86.750 and of any other person claiming by, through or under such persons, and such persons shall have no right to redeem the property from the purchaser at the trustee's sale. The failure to give notice to any of these persons shall not affect the validity of the sale as to persons so notified.

(2) When a sale is made by a trustee under ORS 86.705 to 86.795, or under a judicial foreclosure, no other or further action, suit or proceedings shall be taken, nor judgment entered for any deficiency, against the grantor or his surety, guarantor, successor in interest, if any, on the note, bond or other obligation secured by the trust deed or against any other person obligated on such note, bond or other obligation.
[1959 c.625 §§12, 13; 1965 c.457 §9]

86.775 Contents of trustee's deed to purchaser. The trustee's deed to the purchaser at the trustee's sale shall contain, in addition to a description of the property conveyed, a recital of the facts concerning the default, the notice given, the conduct of the sale and the receipt of the purchase money from the purchaser.
[1959 c.625 §14]

86.780 Recitals in trustee's deed and certain affidavits as prima facie or conclusive evidence. When the trustee's deed is recorded in the deed records of the county or counties where the property described in the deed is situated, the recitals contained in the deed and in the affidavits required under subsection (3) of ORS 86.750 shall be prima facie evidence in any court of the truth of the matters set forth herein, but the recitals shall be conclusive in favor of a purchaser for value in good faith relying upon them.
[1959 c.625 §15]

86.785 Requests for copies of notice of default or notice of sale. At any time subsequent to the recordation of a trust deed and prior to a recording of notice of default under the deed, any person desiring a copy of any notice of default or any notice of sale under a trust deed as provided in subsection (1) of ORS 86.740 may cause to be filed for record in the county clerk's office of the county or counties in which any part or parcel of the real property is situated, a duly acknowledged request for a copy of any notice of sale or default where service is made upon the trustee. The request shall contain the name and address of the person requesting copies of the notice or notices and shall identify the trust deed by stating the names of the parties to the deed, the date of recordation of the deed and the book and page where the deed is recorded. The county clerk shall immediately make a cross reference of the request to the trust deed, either on the margin of the page where the trust deed is recorded or in some other suitable place. No request, statement or notation placed on the record pursuant to this section shall affect title to the property or be deemed notice to any person that any person so recording the request has any right, title, interest in, lien or charge upon the property referred to in the trust deed.
[1959 c.625 §16]

86.790 Qualifications of trustee; appointment of successor trustee. (1) The trustee of a trust deed under ORS 86.705 to 86.795 shall not be required to comply with the provisions of ORS chapters 707 and 709 and shall be:

(a) An attorney who is an active member of the Oregon State Bar; or

(b) A bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States; or

(c) A title insurance company authorized to insure title to real property in this state, its subsidiaries, affiliates, agents or branches.

(2) If at any time after the trust deed is executed, the trustee, by reason of death, dissolution, incapacity, disability, resignation or otherwise, ceases to act as trustee, the beneficiary may appoint in writing another qualified trustee. If the appointment of the successor trustee is recorded in the mortgage records of the county or counties in which the trust deed is recorded, the successor trustee shall be vested with all the powers of the original trustee.
[1959 c.625 §3; 1967 c.359 §680]

86.795 Compensation of trustee. The charge of a trustee for the performance of powers and duties of foreclosure by advertisement and sale imposed under ORS 86.705 to 86.795 shall not exceed 50 percent of the compensation allowable to an executor or administrator under ORS 116.173 or a minimum charge of $100. Such compensation shall be based upon the amount due on the obligation, both principal and interest, at the time of the trustee's sale.
[1959 c.625 §19; 1961 c.616 §7; 1965 c.457 §10]

PENALTIES

86.990 Penalties. Violation of ORS 86.040 is punishable, upon conviction, by a fine not exceeding $500 or imprisonment in the county jail not exceeding six months, or both.
[Amended by 1961 c.726 §410]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1967.

Robert W. Lundy
Legislative Counsel