

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted upon filing, by the
Oregon Department of Justice Date prior to or same as filing date
137

Agency and Division	Administrative Rules Chapter Number
Carol Riches	503-378-5555
Rules Coordinator	Telephone
1162 Court Street NE Salem, OR 97301	Address

to become effective July 11, 2012 through January 6, 2013.

RULE CAPTION

Adopts Rules Required by 2012 Legislation to Implement Foreclosure Avoidance Mediation Program.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 137-110-0001; OAR 137-110-0005; OAR 137-110-0010; OAR 137-110-0020; OAR 137-110-0110; OAR 137-110-0200; OAR 137-110-0210; OAR 137-110-0410; OAR 137-110-0420; OAR 137-110-0430; OAR 137-110-0500; OAR 137-110-0510; OAR 137-110-0520; OAR 137-110-0600; OAR 137-110-0610; OAR 137-110-0620; OAR 137-110-0630; OAR 137-110-0640; OAR 137-110-0650; OAR 137-110-0660; OAR 137-110-0670.

AMEND: Not applicable

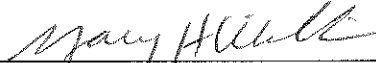
SUSPEND: Not applicable

Stat. Auth.: Or Laws 2012, ch 112, §§ 2(2), 2(3), 2(4), 2(5), 2(6), 2(7), 2a(3), 3, 4a(4)
Stats. Implemented: Or Laws 2012, ch 112

RULE SUMMARY

These rules implement the Foreclosure Avoidance Mediation Program established by Oregon Laws 2012, chapter 112. These rules provide:

- The accepted methods for providing statutorily-required notice to the Attorney General;
- The minimum training, qualifications and experience required of program mediators;
- The fees that must be paid by the parties, the timing of fee payments, and the requirements for obtaining a waiver by low-income grantors;
- The form for, and contents of, the notice of mediation that must be created by certain beneficiaries seeking non-judicial foreclosure;
- The form for, and contents of, the mediation scheduling notice issued by the program's mediation service provider;
- The form for, and contents of, an affidavit exempting a grantor from the requirement to see a housing counselor within a certain timeframe;
- The mediation guidelines that provide for the role of program mediators; documents required of both parties and the schedule for providing those documents; procedures for rescheduling or adjourning mediation sessions; confidentiality provisions; role of interpreters; means of executing agreements; and the procedure for providing a certificate of compliance to the beneficiary and the contents of that certificate.

	Mary H. Williams	July 6, 2012
Authorized Signer	Printed name	Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.
Justice #3484987 ARC 940-2005

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Justice
Agency and Division

137
Administrative Rules Chapter Number

In the Matter of: **Adoption of Chapter 137, Division 110, Rules to Implement Foreclosure Avoidance Mediation Program**

Rule Caption: **Adopts Rules Required by 2012 Legislation to Implement Foreclosure Avoidance Mediation Program.**

Statutory Authority: **Or Laws 2012, ch 112; §§ 2(2), 2(3), 2(4), 2(5), 2(6), 2(7), 2a(3), 3, 4a(4) (SB 1552)**

Other Authority:

Stats. Implemented: **Or Laws 2012, ch 112 (SB 1552)**

Need for the Temporary Rule(s):

Or Laws 2012, ch 112 (SB 1552) establishes the Foreclosure Avoidance Mediation Program that allows grantors to engage in mediation with beneficiaries for the purpose of attempting to avoid home foreclosure. The law requires the Attorney General to adopt rules to implement the program. These rules do that.

Documents Relied Upon, and where they are available:

Agendas and meeting documents of Foreclosure Mediation Workgroup meetings on March 23 and 30, 2012; April 6, 13 and 27, 2012; May 11 and 24, 2012; and, June 8, 2012, are available on line at http://www.doj.state.or.us/consumer/foreclosure_mediation_committee.shtml and from the Department's Rules Coordinator Carol Riches at 1162 Court Street NE, Salem, Oregon 97301-4096.

Or Laws 2012, ch 112 (SB 1552) is available on line at <http://www.leg.state.or.us/12 reg/measpdf/sb1500.d>

Justification of Temporary Rule(s):

Or Laws 2012, ch 112, § 11, makes the Foreclosure Avoidance Mediation Program operative on July 11, 2012, which is 91 days after the effective date of the Act. The Act requires the Attorney General to adopt rules that are critical for the program to operate, including rules: (1) prescribing the qualifications, training and experience necessary for program mediators; (2) specifying the fee schedule for mediators and the circumstances in which a fee waiver is permitted; (3) establishing mediation guidelines; (4) prescribing the form and content of various required notices, affidavits and certificates; and, (5) listing documents other than those specified by statute that beneficiaries must bring to mediation. If those rules are not effective on July 11, 2012, operation of the program would be delayed, thwarting the Legislative Assembly's express intent to have the program operational on that date. Delayed implementation of the program would harm the public's interest in having the program operational on the date specified by the Legislative Assembly. Grantors who are legally entitled to use the program on July 11, 2012, will also be harmed by being unable to avail themselves of the program until permanent rules can be promulgated. The delay will also have a serious business impact on beneficiaries as complying with program requirements (as specified in the rules) is a prerequisite to non-judicial foreclosure. Adoption of the temporary rules effective July 11, 2012, would avoid those harms by making it possible for the program to begin operation on the date specified by the Legislative Assembly.


Authorized Signer

Mary H. Williams
Printed name

July 6, 2012
Date

DIVISION 110

FORECLOSURE AVOIDANCE MEDIATION PROGRAM

Purpose, Application, Definitions and Structure

137-110-0001

Purpose

These division 110 rules govern the foreclosure avoidance mediation program created by Oregon Laws 2012, chapter 112.

Stat. Auth.: OL 2012, ch 112, sec 2(2), 2(5), 2(7), 2a(3), 3, and 4a(4)

Stats. Implemented: OL 2012, ch 112

137-110-0005 Application

These division 110 rules apply to any mediation resulting from the issuance of a notice of mediation by a beneficiary seeking to foreclose a residential trust deed pursuant to ORS 86.735 and to an at-risk grantor's request to enter into foreclosure avoidance mediation with respect to a residential trust deed.

Stat. Auth.: OL 2012, ch 112, sec 2(5) and 2(7)

Stats. Implemented: OL 2012, ch 112

137-110-0010 Definitions

As used in these division 110 rules, unless a specific rule provides otherwise for purposes of that rule:

- (1) "Date of mediation" means the date of the mediation session with the beneficiary or the beneficiary's agent and a mediator and grantor present.
- (2) "Foreclosure Avoidance Mediation Program" means the mediation program established under Oregon Laws 2012, chapter 112.
- (3) "Foreclosure avoidance mediation roster" means the roster of qualified mediators maintained by the mediation service provider.
- (4) "Housing counselor" means an individual or entity offering guidance on home buying, renting, reverse mortgages and default and foreclosure prevention
- (5) "Mediation" means a process undertaken under the Foreclosure Avoidance Mediation Program in which a mediator assists and facilitates the grantor and beneficiary in attempting to reach a mutually acceptable resolution of a controversy involving a residential trust deed loan and includes all contacts between a mediator and any party or agent of a party, until such time as a resolution is agreed to by the parties. Mediation begins with the first contact between a grantor or beneficiary and the mediation service provider and concludes when an agreement is reached between the grantor and the beneficiary or, in the event an agreement is not reached, with the issuance of a certificate of compliance by the mediation service provider or the closure of the case by the mediation service provider without the issuance of a certificate of compliance.
- (6) "Mediation agreement" means an agreement arising out of a mediation, including any term or condition of the agreement.
- (7) "Mediation communications" means:

(a) All communications that are made in the course of or in connection with a mediation, to a mediator, a mediation program or a party to, or any other person present at, the mediation proceedings; and

(b) All memoranda, work products, documents and other materials, including any draft mediation agreement, that are prepared for or submitted in the course of or in connection with a mediation or submitted by a mediator, the mediation service provider or a party to, or any other person present at, a mediation session.

(8) “Mediation program” means a community dispute resolution program, mediator organization or the mediation service provider through which mediation is made available under the Foreclosure Avoidance Mediation Program and includes the director, agents and employees of the Foreclosure Avoidance Mediation Program.

(9) “Mediation service provider” means the entity appointed by the Attorney General pursuant to Oregon Laws 2012, chapter 112, section 2.

(10) “Mediation session” means a meeting involving the mediator, the grantor and the beneficiary or its representatives.

(11) “Mediator” means a third party who performs mediation within the Foreclosure Avoidance Mediation Program.

(12) “Party” means the grantor, the beneficiary and the beneficiary’s agent if the beneficiary authorizes the agent to appear on the beneficiary’s behalf at mediation.

Stat. Auth.: OL 2012, ch 112, sec 2(2), 2(5), 2(7), 2a(3), 3, and 4a(4)

Stats. Implemented: OL 2012, ch 112

137-110-0020

Notice to Attorney General

For the purposes of these division 110 rules and the Foreclosure Avoidance Mediation Program, any requirement or option to mail a copy of a notice to or otherwise notify the Attorney General may be met through either one of the following means:

(1) By U.S. mail addressed to Attorney General of Oregon, Foreclosure Avoidance Mediation Program, 1162 Court St. NE, Salem, OR 97301-4096; or

(2) By electronic mail addressed to DOJ@foreclosuremediationOR.org. Electronic mail notifications may be accomplished using the web-based computer program provided by the mediation service provider to the extent that such functionality is available for a particular notice or form.

Stat. Auth.: OL 2012, ch 112, sec 4a(4)

Stats. Implemented: OL 2012, ch 112, sec 4a(2), (3), and (4)

Mediator Qualifications, Training and Experience

137-110-0110

Mediator Qualifications, Training and Experience

(1) For purposes of this rule only:

(a) “Mediation” means a process in which a mediator assists and facilitates two or more parties to any controversy in attempting to reach a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such time as a resolution is agreed to by the parties or the mediation process is terminated; and

(b) “Mediator” means a third party who performs mediation.

(2) A mediator conducting a mediation under the Foreclosure Avoidance Mediation Program shall:

- (a) Have conducted at least 20 mediations of any type or subject matter as a mediator. Work performed as an assistant or apprentice mediator under the supervision of a lead mediator may also be counted toward the 20 mediation requirement;
- (b) Provide evidence of at least 100 hours of mediation experience as a mediator or as an assistant or apprentice mediator. Work that a mediator performs to prepare for and schedule the mediation or to prepare the parties for a mediation session, may be counted towards this 100 hour requirement;
- (c) Disclose to the mediation service provider the professional standards to which the mediator subscribes;
- (d) Have successfully participated in at least 30 hours of training that is consistent with the curriculum found in Section 3.2 of the Oregon Judicial Department Court Connected Mediator Qualification Rules effective August 1, 2005;
- (e) Demonstrate that the mediator is familiar with ORS 36.110 to 36.238;
- (f) Provide evidence of successful participation in at least 16 hours of training on the substantive law and legal processes regarding foreclosures in Oregon including ORS Chapter 86; and
- (g) Provide evidence of successful participation in at least 8 hours of training on the procedures, practices and policies of the Foreclosure Avoidance Mediation Program. This training shall include some interactive instruction, such as role-playing.

(3) The mediation service provider may grant a waiver from the training requirements in subsections 2(d) and (f) of this rule upon a showing by the mediator of significant and related education or experience.

(4) The mediation service provider shall decide whether or not an individual:

- (a) Meets the minimum qualifications as a mediator under these rules;
- (b) Is included on the foreclosure avoidance mediation roster; or
- (c) Is assigned to a mediation.

(5) An individual who meets the minimum qualifications as a mediator under these rules or who is added to the foreclosure avoidance mediation roster may not represent that fact as license or certification of their competency for anything other than their role in the Foreclosure Avoidance Mediation Program.

Stat. Auth.: OL 2012, ch 112, sec 2(2)(b)(B)

Stats. Implemented: OL 2012, ch 112, sec 2(2)(b)(B)

Fee Schedule

137-110-0200

Fees Paid by the Grantor, Fee Waiver

(1) In mediations initiated in connection with a notice of default, the grantor shall pay a fee of \$200 to the mediation service provider at the time the grantor confirms his or her participation in the mediation as required by Oregon Laws 2012, chapter 112, Section 2(3)(c). If there are joint or multiple grantors, only one grantor needs to pay this fee.

(2) In mediations initiated at the request of an at-risk grantor, the grantor shall pay a fee of \$200 to the mediation service provider at the time the grantor confirms his or her participation in the mediation as required by Oregon Laws 2012, chapter 112, Section 2(3)(c). If there are joint or multiple grantors, only one grantor must pay this fee.

(3) The grantor may apply for a waiver of \$150 of the fees described in sections (1) and (2) of this rule at the time the grantor confirms his or her participation in the mediation as required by Oregon Laws 2012, chapter 112, Section 2(3)(c). The grantor shall pay a \$50 fee at the time of requesting a fee waiver.

(4) A grantor's application for a fee waiver under section (3) of this rule shall be granted if the grantor is able to provide satisfactory evidence to the mediation service provider that the grantor's annual household income is less than:

- (a) \$ 22,340 for a household of one;
- (b) \$ 30,260 for a household of two;
- (c) \$ 38,180 for a household of three;
- (d) \$ 46,100 for a household of four;
- (e) \$ 54,020 for a household of five;
- (f) \$ 61,940 for a household of six;
- (g) \$ 69,860 for a household of seven;
- (h) \$ 77,780 for a household of eight;
- (i) \$ 85,700 for a household of nine; or
- (j) \$ 93,620 for a household of ten or more.

(5) If the mediation service provider denies a grantor's application for a fee waiver made under section (3) of this rule, the grantor shall pay the remaining \$150 within 15 days of receiving the mediation service provider's determination not to grant a fee waiver but never later than the date of the scheduled mediation session.

(6) A grantor who fails to timely pay fees will be considered to have declined mediation. Failure by a grantor to timely pay fees will result in cancellation of the mediation session.

Stat. Auth.: OL 2012, ch 112, sec 2(2)(b)(C) and 2(2)(c)

Stats. Implemented: OL 2012, ch 112, sec 2(2)(b)(C) and 2(2)(c)

137-110-0210

Fees Paid by Beneficiary

(1) In mediations initiated in connection with a notice of default, the beneficiary or the beneficiary's agent shall pay a total mediation fee of \$425 to the mediation service provider. The beneficiary shall pay \$200 of that fee at the time of serving or mailing the notice of mediation. The beneficiary shall pay the remaining \$225 prior to the scheduled mediation session.

(2) In mediations initiated at the request of an at-risk grantor, the beneficiary or the beneficiary's agent shall pay a total mediation fee of \$500 to the mediation service provider. The beneficiary shall pay \$200 of that fee at the time the beneficiary notifies the mediation service provider of the grantor's request for mediation pursuant to Oregon Laws 2012, chapter 112, Section 2(7). The beneficiary shall pay the remaining \$300 prior to the scheduled mediation session.

(3) A junior lienholder that participates in a mediation shall pay the fee stated in section (1) of this rule.

(4) A beneficiary that is otherwise exempt from mediation pursuant to Oregon Laws 2012, chapter 112, section 2(2)(d) may participate in mediation by paying the fees described in section (1) of this rule and by following the mediation guidelines set forth in OAR 137-110-0600 to 137-110-0670.

(5) Failure by a beneficiary to timely pay fees will result in cancellation of the mediation session.

Stat. Auth.: OL 2012, ch 112, sec 2(2)(b)(C)

Stats. Implemented: OL 2012, ch 112, sec 2(2)(b)(C)

Mediation Initiated in Connection with a Notice of Default

137-110-0410

Beneficiary Requirements

(1) Unless exempt under Oregon Laws 2012, chapter 112, Section (2)(2)(d), a beneficiary filing a notice of default pursuant to ORS 86.735 on a residential trust deed shall:

(a) Provide a notice of mediation to the grantor and the mediation service provider at least 60 days before serving or mailing the notice of sale described in ORS 86.740(1)(a).

(b) Include the following contents in the notice of mediation:

(i) List the last known name, address, telephone number and other contact information for the grantor or other person named in the residential trust deed;

(ii) Specify the account number or other means by which the beneficiary or trustee or an agent of the beneficiary or trustee identifies the obligation that is secured by the residential trust deed;

(iii) Provide the address, telephone number and other contact information for:

(1) The beneficiary or an agent of the beneficiary that the beneficiary authorizes to negotiate on the beneficiary's behalf;

(2) The Oregon State Bar's Lawyer Referral Service;

(3) Service agencies or other providers that offer free or low-cost legal services from a list of agencies or providers that the Attorney General adopts by rule; and

(4) A list of not-for-profit housing counselors approved by the United States Department of Housing and Urban Development or an agency of this state compiled by the Oregon Housing and Community Services agency;

(iv) State that the grantor must consult with a housing counselor approved by the United States Department of Housing and Urban Development. State that the grantor may choose to have an attorney or United States Department of Housing and Urban Development-approved housing counselor represent the grantor at the mediation;

(v) State that the beneficiary is required to enter into mediation with the grantor for the purpose of negotiating a foreclosure avoidance measure;

(vi) Contain a brief, plain language description of the foreclosure avoidance measures offered by the beneficiary or the beneficiary's agent or a description of the foreclosure avoidance measures described in section 2(1) of Oregon Laws 2012, chapter 112;

(vii) List the documents the grantor is required to bring pursuant to OAR 137-110-0620;

(viii) State the fees associated with mediation and specify the maximum cost for which the grantor will be responsible;

(ix) State that the mediation and mediation communications, as defined in ORS 36.110, are confidential in accordance with and to the extent provided in ORS 36.220 to 36.238;

(x) State that within 30 days after the date of the notice a mediation service provider will send another notice to the grantor with a date, time and location for the mediation and other requirements of Oregon law.

(2) The notice required by section (1) of this rule:

(a) Shall be served on the mediation service provider in the manner prescribed by ORS 86.740.

However, the mediation service provider shall accept service if the notice is submitted using a web-based computer program provided by the mediation service provider and the provider acknowledges its actual receipt of the notice by electronic mail or confirmation generated within the provider's web-based computer program.

(b) Shall substantially comply with the model form provided in Appendix A to these Division 110 rules and available as “Form 410” at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml.

(3) The beneficiary shall comply with the mediation guidelines set out in OAR 137-110-600 to 137-110-670.

Stat. Auth.: OL 2012, ch 112, sec 3

Stats. Implemented: OL 2012, ch 112, sec 3

137-110-0420

Mediation Service Provider Requirements

(1) Within 30 days after the date on which the beneficiary caused a notice of mediation to be served or mailed as provided in ORS 86.740, the mediation service provider shall send a mediation scheduling notice to the grantor and beneficiary. The mediation scheduling notice must:

- (a) State the date, time and location of the scheduled mediation session;
- (b) Identify and provide contact information for the mediation services provider;
- (c) Provide a date at least 30 days before the scheduled mediation by which the grantor shall contact the mediation service provider to confirm that the grantor will enter into mediation and pay fees. The notice shall conspicuously state that failure to confirm participation and pay applicable fees by the specified date will be deemed refusal to participate by the grantor;
- (d) State the fees associated with mediation;
- (e) Provide the address, telephone number and other contact information for a list of not-for-profit housing counselors approved by the United States Department of Housing and Urban Development and other housing counselors compiled by the Oregon Housing and Community Services Department;
- (f) State that the grantor must consult with a housing counselor approved by the United States Department of Housing and Urban Development;
- (g) List the documents each party shall bring to mediation; and
- (h) Provide contact information for low cost legal service providers and the Oregon State Bar.

(2) The notice required by section (1) of this rule shall substantially comply with the model form provided in Appendix B to these Division 110 rules and available as “Form 420” at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml

Stat. Auth.: OL 2012, ch 112, sec 2(3)

Stats. Implemented: OL 2012, ch 112, sec 2(3)

137-110-0430

Grantor Requirements

If the grantor wishes to participate in mediation, the following requirements apply:

(1) On or before the date specified by the mediation service provider in its mediation scheduling notice, the grantor shall confirm with the mediation service provider that the grantor wishes to enter into mediation.

(2) The grantor shall attend housing counseling with a United States Department of Housing and Urban Development approved housing counselor prior to the mediation session.

(3) The requirement in section (2) of this rule does not apply if the grantor notifies the mediation service provider that the grantor has been unable to obtain an appointment to consult with a

qualified housing counselor within 30 days after receiving the notice of mediation and executes an affidavit including:

- (a) The name of the grantor;
- (b) The name of the beneficiary;
- (c) The address of the property; and
- (d) A statement that the grantor of the named property has been unable to obtain an appointment to consult with a qualified housing counselor within 30 days after receiving the notice of mediation.

(4) The affidavit described in section (3) shall substantially comply with the model form provided in Appendix C to these Division 110 rules and available as “Form 430” at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml.

(5) The grantor shall comply with the mediation guidelines set out in OAR 137-110-600 to 137-110-670.

Stat. Auth.: OL 2012, ch 112, sec 2(3) and 2a(3)

Stats. Implemented: OL 2012, ch 112, sec 2(3) and 2a

Mediation Initiated by a Grantor at Risk of Default

137-110-0500

Grantor Requirements

(1) A grantor who is at risk of default may request mediation with the beneficiary using the paper or web-based computer form available for this purpose from the mediation service provider. The grantor must deliver this request to the beneficiary or trustee or the beneficiary’s agent or trustee’s agent.

(2) A grantor that requests mediation under section (1) of this rule may notify the mediation service provider and the Attorney General of the request. A request for mediation made using the web-based computer form available from the mediation service provider shall be considered sufficient notice to the mediation service provider and the Attorney General.

(3) A grantor shall attend housing counseling with a United States Department of Housing and Urban Development-approved housing counselor prior to the mediation session.

(4) The grantor shall comply with the mediation guidelines set out in OAR 137-110-600 to 137-110-670.

Stat. Auth.: OL 2012, ch 112, sec 2(5)

Stats. Implemented: OL 2012, ch 112, sec 2(5) and 2(7)

137-110-0510

Beneficiary or Trustee Requirements

(1) Within 15 days of receiving a request for mediation from an at-risk grantor, the beneficiary or trustee or the beneficiary’s or trustee’s agent shall respond to the grantor’s request, and this response shall include contact information for the Attorney General and the mediation service provider.

(2) Within 15 days of receiving a request for mediation from an at-risk grantor, the beneficiary or trustee or the beneficiary’s or trustee’s agent shall notify the Attorney General and the mediation service provider of the grantor’s request and the beneficiary’s response by:

- (a) Mailing notice to the mediation services provider; or

(b) By electronic means using the web-based computer program provided by the mediation service provider.

(3) At the time of providing the notice required by section (2) of this rule, the beneficiary shall pay the fee required by OAR 137-110-0210(2).

(4) The beneficiary shall comply with the mediation guidelines set out in OAR 137-110-600 to 137-110-670.

Stat. Auth.: OL 2012, ch 112, sec 2(5)

Stats. Implemented: OL 2012, ch 112, sec 2(5) and 2(7)

137-110-0520

Mediation Service Provider Requirements

Within 10 days after receiving a beneficiary's notification of a request for mediation by an at-risk grantor, the mediation service provider shall send a mediation scheduling notice to the grantor and the beneficiary that, with the exception of the deadline by which such notice must be sent out, complies with the requirements of OAR 137-110-420.

Stat. Auth.: OL 2012, ch 112, sec 2(3) and 2(7)

Stats. Implemented: OL 2012, ch 112, sec 2(3) and 2(7)

Mediation Guidelines

137-110-0600

Mediator Authority and Role

(1) The mediator has no authority to impose a settlement on the grantor or the beneficiary or to render any decisions on any substantive issue or make any legal determinations.

(2) The mediator may rely on assertions made in the documents provided by the parties and need not make an independent inquiry into the proper chain of title or any other matter.

(3) The mediator shall:

(a) Act as an impartial intermediary and not as an advocate for the beneficiary or the grantor;

(b) Make appropriate disclosures to the parties about the mediator's skills and the specific mediation approaches the mediator uses;

(c) Support the ability of the parties to make informed decisions regarding the mediation process and outcomes by ensuring that parties are provided with information regarding the mediation process and by ensuring that relevant documents are available to the parties;

(d) Conduct mediations fairly, diligently, even-handedly, and with no personal stake in the outcome;

(e) Avoid actual, potential, or perceived conflicts of interest that can arise from a mediator's relationships or experiences that reasonably raise a question about the mediator's impartiality;

(f) Affirmatively disclose to the mediation service provider and the parties any actual, potential or perceived conflicts of interest that could raise a question about the mediator's impartiality;

(g) Where a party, the mediator or the mediation service provider questions the mediator's ability to act impartially, and the issue cannot be resolved to the satisfaction of the questioner, the mediator shall decline to serve or withdraw if already serving as the mediator in a particular mediation. Having questioned a mediator's impartiality, and that mediator having declined to serve, the ability of a party to exclude any subsequent mediator shall be at the discretion of the mediation service provider;

(h) Not engage in any other services, other than mediation, for any of the parties involving the same or significantly related issues, unless the parties agree in writing; and

(i) Preserve the grantor's and the beneficiary's desired levels of confidentiality consistent with OAR 137-110-0640.

Stat. Auth.: OL 2012, ch 112, sec 2(5)

Stats. Implemented: OL 2012, ch 112, sec 2(5)

137-110-0610

Documents Required of the Grantor

(1) The grantor shall provide the following documents to the mediation service provider for provision to the beneficiary at least 15 days prior to the first scheduled mediation session:

(a) A completed "Universal Intake Form" provided in Appendix D and available by selecting "Form 610" at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml;

(b) Pay stubs that confirm the grantor's income for the two full months immediately preceding the month during which the grantor submits the pay stubs;

(c) A profit and loss statement, if available, if the grantor is self-employed;

(d) Bank statements for the two full months immediately preceding the month during which the grantor submits the bank statements;

(e) A benefits statement or letter from the benefit provider showing the amount, frequency and duration of the benefit, if relying on social security, disability, unemployment or other non-wage benefit income;

(f) A divorce decree or judgment or separation agreement, if the grantor is relying on child support, alimony or maintenance payments;

(g) The grantor's most recent electric, heat, gas, or other utility bill;

(h) Most recent property tax statement or appraisal; and

(i) The grantor's tax returns from the two most recent years.

(2) If a grantor fails to timely provide documents as required by section (1) of this rule the grantor and the beneficiary shall nevertheless appear at the first scheduled mediation session. A grantor who does not timely provide a document required by this rule is at increased risk of the mediation concluding without the beneficiary being able to agree to a foreclosure avoidance measure.

Stat. Auth.: OL 2012, ch 112, sec 2(5) and 3

Stats. Implemented: OL 2012, ch 112, sec 2(5) and 3

137-110-0620

Documents Required of the Beneficiary

(1) The beneficiary shall provide the following documents to the mediation service provider for provision to the grantor at least 15 days prior to the first scheduled mediation session:

(a) The grantor's complete payment history for the obligation that is secured by the residential trust deed that the beneficiary seeks to foreclose;

(b) Evidence that the beneficiary is the real party in interest with respect to the obligation, including:

(i) A true copy of the original debt instrument that is the basis for the right the beneficiary seeks to foreclose; and

- (ii) Documents showing chain of title for the property at issue, including recorded and unrecorded conveyances, endorsements and assignments of the trust deed, the note and the security instrument;
- (c) A copy of the authorization from the beneficiary to the beneficiary's agent, if the beneficiary's agent appears at mediation;
- (d) A copy of any of the following documents that apply to the note or obligation that is secured by the trust deed:
 - (i) A servicing agreement the beneficiary entered into with another person; or
 - (ii) An agreement by means of which the beneficiary pledged as collateral for a security the beneficiary issued or sold all or a part of the ownership interest in the note or other obligation;
- (2) To the extent that the grantor has timely provided their documents as required by OAR 137-110-0610, the beneficiary or the beneficiary's agent shall provide the following documents to the mediation service provider or mediator for presentation to the grantor at or before the first scheduled mediation session:
 - (a) The beneficiary's or the beneficiary's agent's most recent broker price opinion or appraisal;
 - (b) A document that identifies each net present value model used by the beneficiary or the beneficiary's agent to assess the grantor for a foreclosure avoidance measure and the input values used by the beneficiary or the beneficiary's agent, and the output values produced by the net present value model;
 - (c) A document that lists the total amount that a grantor must submit to the trustee to discontinue foreclosure proceedings, along with an itemized description of all costs and expenses incurred by the beneficiary or beneficiary's agent in connection with the foreclosure, including trustee and attorney fees; and
 - (d) Any other document the beneficiary believes limits the scope of the agent's authority to agree to a particular foreclosure avoidance measure.
- (3) Nothing in section (2) of this rule requires a beneficiary or the beneficiary's agent to disclose the algorithmic formula of the net present value model used by the beneficiary or the beneficiary's agent.
- (4) If a beneficiary fails to timely provide documents as required by section (1) of this rule, the grantor and the beneficiary shall nevertheless appear at the first scheduled mediation session. A beneficiary who fails to provide a document required by this rule is at risk of the mediation concluding without the beneficiary receiving a certificate of compliance.

Stat. Auth.: OL 2012, ch 112, sec 2(4)(a)(A) and 2(5)

Stats. Implemented: OL 2012, ch 112, sec 2(4)(a)(A) and 2(5)

137-110-0630

Rescheduling or Adjourning the Mediation Session

- (1) All parties shall attend the scheduled mediation session unless the mediation is rescheduled in accordance with the provisions of this rule.
- (2) Within 10 days of the mediation scheduling notice, either party may request that the mediation service provider reschedule the date for the mediation session to a date or location that is more convenient. The rescheduled mediation session must be no earlier than 45 days and not later than 90 days after the date on which the notice of mediation was served or mailed as provided in ORS 86.740.
- (3) Except as provided in section (2) of this rule, no request from a party for rescheduling of the mediation session may be granted except upon a showing of good cause or upon a written

agreement of the parties and the mediator. Notice of such written agreement shall be provided by facsimile, electronic mail, regular mail or by use of a web-based computer program provided by the mediation service provider.

(4) A request to reschedule the mediation session for good cause shall be in writing and delivered to the mediation service provider and the other party. The request shall set forth the circumstances demonstrating good cause with particularity.

(5) If the mediation service provider grants rescheduling, the mediation service provider shall issue a notice that provides the new date, time, and location of mediation within 10 days of the request for rescheduling.

(6) With the consent of the parties, a mediation session may be adjourned and a second mediation session scheduled.

Stat. Auth.: OL 2012, ch 112, sec 2(5)

Stats. Implemented: OL 2012, ch 112, sec 2(5)

137-110-0640

Confidentiality

(1) Except as otherwise provided in this rule or by the terms of any agreement to mediate executed by the parties prior to a mediation session, the foreclosure avoidance mediation process is confidential and mediation communications are inadmissible as provided in ORS 36.110 to ORS 36.238.

(2) The mediation service provider is a mediation program for the purposes of ORS 36.100 to 36.238.

(3) No videotaping, transcription or other recording of mediation sessions is permitted except by written agreement of the parties and the mediator.

(4) Before participating in a mediation session, the grantor and beneficiary may execute an “agreement to mediate” specifying the confidentiality provisions of the mediation, consistent with these rules and ORS 36.110 to 36.238.

(5) Mediations in which a state agency is a party are subject to ORS 36.224.

(6) An agreement to mediate executed by the parties prior to mediation is not confidential.

(7) Nothing in this rule prevents a mediator from disclosing the outcome of the mediation to the mediation service provider or from completing a report of the mediation outcomes on forms approved by the Attorney General. Such disclosures and reports are not confidential and may be disclosed or admitted as evidence in a subsequent proceeding.

(8) Nothing in this rule limits the ability of the mediation service provider or the Attorney General to compile and disclose general statistical information concerning matters that have gone to mediation if the information does not identify specific cases.

(9) Nothing in this rule limits the ability of the mediation service provider or the Attorney General to disclose confidential mediation communications, the disposition of matters referred for mediation and the terms of mediation agreements to another person for use in research, training or educational purposes, subject to the following:

(a) A mediator or mediation program may only use or disclose confidential mediation communications if the communications are used or disclosed in a manner that does not identify individual mediations or parties.

(b) A mediator or mediation program may use or disclose confidential mediation communications that identify individual mediations or parties only if and to the extent allowed by a written agreement with, or written waiver of confidentiality by, the parties.

Stat. Auth.: OL 2012, ch 112, sec 2(5)
Stats. Implemented: OL 2012, ch 112, sec 2(5)

137-110-0650

Participation in the Mediation Session

- (1) Any party wishing to participate in mediation, including otherwise exempt beneficiaries or junior lienholders, shall do so in accordance with all other provisions of OAR 137-110-0001 to 137-110-0670.
- (2) If a trust deed includes joint or multiple grantors, and fewer than all grantors confirm participation in the mediation session, the mediation may nevertheless occur with the consent of the beneficiary.
- (3) The mediation service provider may assist the parties in obtaining an interpreter. However, if the mediation service provider is unable to provide an interpreter, the party needing an interpreter is responsible for securing and paying for the interpreter. The manner of participation of a language interpreter during a mediation session will be determined by the mediator.

Stat. Auth.: OL 2012, ch 112, sec 2(5)
Stats. Implemented: OL 2012, ch 112, sec 2(5)

137-110-0660

Agreements

- (1) In the event the foreclosure issues are resolved before the scheduled mediation session, the parties shall advise the mediation service provider of their settlement using paper or web-based forms provided by the mediation service provider.
- (2) Any agreement reached as a result of mediation shall be reduced to writing.

Stat. Auth.: OL 2012, ch 112, sec 2(5)
Stats. Implemented: OL 2012, ch 112, sec 2(5)

137-110-0670

Certificate of Compliance

- (1) The mediation service provider shall issue a certificate of compliance upon notification by the mediator that the mediation has concluded and the beneficiary has complied with the requirements of these rules. The certificate of compliance shall be issued to the beneficiary or the beneficiary's agent no later than five days following the conclusion of the mediation.
- (2) The mediation service provider shall issue a certificate of compliance if a grantor fails to confirm by the date provided by Oregon Laws 2012, chapter 112, section 2 (3)(c) that the grantor intends to enter into mediation.
- (3) The certificate of compliance shall include:
 - (a) The name of the grantor;
 - (b) The name of the beneficiary;
 - (c) The address of the property at issue;
 - (d) Reference to the recording information of the trust deed at issue;
 - (e) A certification that either:
 - (i) The beneficiary or its agent appeared at mediation and complied with the requirements of Or Laws 2012, ch 112, Sections 4 and 5;
 - (ii) The grantor elected to enter into mediation but failed to appear at the time and place scheduled for mediation; or

(iii) The grantor declined to enter into mediation with the beneficiary, or did not confirm intent to participate by the required date.

(4) The certificate of compliance described in this rule shall substantially comply with the model form provided in Appendix E to these Division 110 rules and available as “Form 670” at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml.

(5) The certificate of compliance described in this rule shall be submitted via hard copy to the grantor(s) and beneficiary(ies) by facsimile machine, by U.S. mail, or in person. In addition, the mediation service provider may make the certificate of compliance available to the grantor and the beneficiary via a web-based computer program.

Stat. Auth.: OL 2012, ch 112, sec 2(6)

Stats. Implemented: OL 2012, ch 112, sec 2(6)



NOTICE OF RIGHT TO PARTICIPATE IN MEDIATION WITH MORTGAGE LENDER (Notice of Mediation)

STATE OF OREGON
FORECLOSURE AVOIDANCE MEDIATION PROGRAM

**IMPORTANT: YOU ARE IN DANGER
OF LOSING YOUR HOME TO FORECLOSURE!**

MailTo
MailToAddress
MailToCityStateZip

This notice explains your right to participate in mediation with your lender to see if foreclosure can be avoided. Please read this notice carefully.

Este es un aviso importante que explica su derecho a participar en la mediación con su prestamista para ver si se puede evitar la ejecución hipotecaria. Si usted no lee Inglés, llame al 855-658-6733. Una versión traducida de este aviso está disponible en línea al www.ForeclosureMediationOR.org.

INFORMATION FOR HOMEOWNERS

Why am I receiving this Notice? Oregon law requires your lender to participate in mediation to help homeowners avoid foreclosure. You are receiving this notice because your lender has started the process of foreclosing on your home.

****** YOU CAN RESPOND IMMEDIATELY, SEE WEBSITE INSTRUCTIONS SECTION BELOW. ******

What is mediation? Mediation is a face-to-face meeting with your lender and a neutral third person “mediator” to discuss alternatives to foreclosure. You may have an attorney or a housing counselor represent you at mediation, or you can represent yourself. ***See the enclosed “Foreclosure Resources” for a list of approved housing counseling and legal services agencies that provide free or low-cost assistance.***

How can mediation help me? Mediation can help you avoid foreclosure by allowing you to negotiate an agreement with your lender to:

- Allow you to make one or more payments late or skip payments (“forbearance”);
- Temporarily or permanently modify (change) your payments or other terms of the loan;
- Allow you to transfer the property to your lender without foreclosure and forgive the debt (a “deed-in-lieu-of-foreclosure”);
- Allow you to sell the property for less than what you owe (a “short sale”); or
- Other assistance that allows you to avoid foreclosure.

If you and your lender reach an agreement, your lender may be prohibited from selling the property unless you violate the terms of the agreement.

How do I request mediation? You should contact the mediation service provider as soon as possible to confirm that you want to mediate. Contact the mediation service provider within 10 days to schedule a date for mediation. Otherwise, a mediation date will be set for you. You can contact the mediation service provider online at www.foreclosuremediationOR.org or by calling 855-658-6733. Within the next 30 days, the mediation service provider will send you a notice with a date, time and location for mediation and a deadline to respond. **If you do not confirm that you want to mediate by the deadline and pay applicable fees, you will lose your right to mediate, and your lender may proceed with the foreclosure.**

Will I have to pay for mediation? Your share of the mediation fee will be \$200.00. Your lender must also pay a fee. If you are low income, you may qualify for a reduced fee.

What documents do I have to provide? You must provide the documents listed in the “Other Information” section of this notice at least 15 days before the mediation. Your lender must provide information to you about your loan, including a complete payment history and proof that the lender owns your loan.

What else will I be required to do? Before mediation, you must meet with a qualified housing counselor who will assist you at no cost. The housing counselor will help you gather information and assess your options. You should make an appointment with a housing counselor as soon as possible. See the attached resource list for approved counselors near you.

If I request mediation, will my information be kept confidential? Oregon law requires that all mediation communications be kept strictly confidential. There are some exceptions to confidentiality and the Mediation Service Provider can explain these to you.

Beware of anyone promising they can “save” your home or requesting an upfront fee before providing assistance. These offers may violate Oregon’s consumer protection laws. If you believe you have been a victim of a scam or have questions about a particular business, call the Oregon Department of Justice’s Consumer Protection Hotline toll-free at 1-877-877-9392.

See the attached Foreclosure Resources for information about where to find a qualified housing counselor, free or low-cost legal assistance, and other foreclosure resources.

INFORMATION FOR RENTERS

If you are a tenant renting this home, you are not entitled to participate in the mediation. Your rights may be at risk. You are bound by your rental agreement with your landlord and must keep paying rent until that agreement is changed or the home is foreclosed on. If the home is foreclosed, the new owner will have the right to require you to move out, but only after written notice in advance. You can learn more about tenants’ rights in foreclosure at www.oregonlawhelp.org, or see the attached resource list for information about how to contact an attorney.

OTHER IMPORTANT INFORMATION

CONTACT INFORMATION	
Borrower (Grantor)	Co-Borrower (Co-Grantor)
Borrower's Name: <i>GrantorFullName</i>	Co-Borrower's Name: <i>CoGrantorFullName</i>
Address: <i>GrantorPropertyAddress GrantorPropertyCityStateZip</i>	Address: <i>CoGrantorPropertyAddress CoGrantorPropertyCityStateZip</i>
Telephone No.: <i>GrantorPhone</i>	Telephone No.: <i>CoGrantorPhone</i>
Other: <i>GrantorOtherContact</i>	Other: <i>CoGrantorOtherContact</i>
Account No.: <i>GrantorAccountNumber</i>	
Beneficiary (Lender) or Authorized Agent	Mediation Service Provider
Beneficiary's Name: <i>BeneficiaryName</i>	Name: Mediation Case Manager
Authorized Agent (if any): <i>BeneficiaryAgentName</i>	Address: 12725 SW Millikan Way, Suite 300, Beaverton, Oregon 97005
Address: <i>BeneficiaryAddress BeneficiaryCityStateZip</i>	Telephone No: 855-658-6733
Telephone No.: <i>BeneficiaryPhone</i>	Fax No: 850-297-1158
Other: <i>BeneficiaryOtherContact</i>	Website: www.ForeclosureMediationOR.org (See below for details)

DOCUMENTS YOU MUST PROVIDE	
<p>You must provide to the Mediation Service Provider all of the documents described below on or before the date stated in your Notice Scheduling Mediation. If you fail to provide all required documents, your lender may not be able to determine that you are eligible for a foreclosure avoidance measure. For more information and instructions, visit www.ForeclosureMediationOR.org</p>	
<ul style="list-style-type: none"> • Universal Intake Form 	<ul style="list-style-type: none"> • Paystubs (two most recent months)
<ul style="list-style-type: none"> • Profit and Loss Statement (if self-employed, most recent quarterly or year-to-date) 	<ul style="list-style-type: none"> • Tax Returns (two most recent years)
<ul style="list-style-type: none"> • Benefits Statement or Letter from Provider (showing amount, frequency and duration of social security, disability, retirement, unemployment or other non-wage income) 	<ul style="list-style-type: none"> • Bank Statements (two most recent months)
	<ul style="list-style-type: none"> • Electric, heat, gas or other utility bill (most recent)
<ul style="list-style-type: none"> • Divorce decree or separation agreement (if relying on child support, alimony or maintenance payments) 	<ul style="list-style-type: none"> • Property Tax Statement or Appraisal/CMA (if available)

**** WEBSITE INSTRUCTIONS ****
<p>Step 1: Visit www.ForeclosureMediationOR.org and click "I am a homeowner"</p> <p>Step 2: Enter the following passcode: <i>GrantorPassCode</i></p> <p>Step 3: Follow the instructions on the screen to participate or decline mediation.</p>



MEDIATION SCHEDULING NOTICE
STATE OF OREGON
FORECLOSURE AVOIDANCE MEDIATION PROGRAM

MailTo

MailToAddress

MailToCityStateZip

A FORECLOSURE AVOIDANCE MEDIATION IS SCHEDULED FOR:

Date:	<i>MedDate</i>	Time:	<i>MediationTime</i>
Location:	<i>MediationLocation</i>		
Mediator:	<i>Mediator</i>		
Deadline to Confirm Participation:	<i>DeadlineConfirmDate</i>		
Deadline to Pay Fee:	<i>DeadlinePayDate</i>		
Deadline to Consult with Housing	<i>DeadlineCounselingDate</i>		
Deadline to Submit Documents:	<i>DeadlineDocsDate</i>		
Your Website Passcode:	<i>GrantorPasscode</i>		
www.ForeclosureMediationOR.org			

IF YOU WANT TO PARTICIPATE IN THE MEDIATION YOU MUST:

- Visit www.ForeclosureMediationOR.org to confirm that you intend to participate in the mediation by **DeadlineConfirmDate2**, or contact the Mediation Service Provider (MSP) using the contact information shown below. If you do not contact the MSP by that date, you will be deemed to have declined mediation and you will lose your right to mediate.
- Pay a \$200 mediation fee to the MSP by **DeadlineConfirmDate2**. If you do not pay your fee to the MSP by that date, you will be deemed to have declined mediation and you will lose your right to mediate. If you are low income, you may qualify for a reduced fee of \$50. See enclosed instructions.
- Consult with a HUD-certified housing counseling agency by **DeadlineCounselingDate2**. Housing counseling services are free, and a list of qualified housing counseling agencies can be found at www.ForeclosureMediationOR.org
- Submit all required documents to the MSP by **DeadlineDocsDate2**. A list of the documents you must provide appears below. See enclosed instructions.
- Appear at the *MediationLocation* on *MedDate* at *MediationTime*.

DOCUMENTS YOU MUST PROVIDE

<ul style="list-style-type: none"> • Universal Intake Form (see instructions) 	<ul style="list-style-type: none"> • Paystubs (two most recent months)
<ul style="list-style-type: none"> • Profit and Loss Statement (if self-employed, most recent quarterly or year-to-date) 	<ul style="list-style-type: none"> • Tax Returns (two most recent years)
<ul style="list-style-type: none"> • Benefits Statement or Letter from Provider (showing amount, frequency and duration of social security, disability, retirement, unemployment or other non-wage income) 	<ul style="list-style-type: none"> • Bank Statements (two most recent months)
	<ul style="list-style-type: none"> • Electric, heat, gas or other utility bill (most recent)
<ul style="list-style-type: none"> • Divorce decree or separation agreement (if relying on child support, alimony or maintenance payments) 	<ul style="list-style-type: none"> • Property Tax Statement or Appraisal/CMA (if available)

YOU MAY CONTACT THE MEDIATION SERVICE PROVIDER (MSP) AT:



Name: Mediation Case Manager	Tel. No. (855) 658-6733
12725 SW Millikan Way, Suite 343, Beaverton, OR 97005	Fax No. 850-297-1158
Website: www.ForeclosureMediationOR.org	Email: mSP@ForeclosureMediationOR.org

See the attached "Foreclosure Resources" for information about where to find a qualified housing counselor, free or low-cost legal assistance, and other foreclosure resources.



**STATE OF OREGON
FORECLOSURE AVOIDANCE MEDIATION PROGRAM**

Homeowner's Affidavit for Counseling Waiver

Date:	
To:	<i>Mediation Case Manager 12725 SW Millikan Way, Suite 300, Beaverton, OR 97005</i>

Homeowner/Grantor:	
Lender/Beneficiary:	
Property Address:	

I, the undersigned, being duly sworn, hereby depose and say that:

I, _____(name(s)) am/are the grantor(s)/homeowner(s) of the above property and have been unable to obtain an appointment to consult with a qualified housing counselor within 30 days after receiving the notice of mediation.

By: _____ Date: _____
Signature Printed Name

State of Oregon)
) ss.
County of _____)

SUBSCRIBED AND SWORN to before me this _____ day of _____, _____.

Notary Public for Oregon
My Commission Expires:

**STATE OF OREGON FORECLOSURE AVOIDANCE MEDIATION PROGRAM
UNIVERSAL INTAKE FORM**

INSTRUCTIONS: Complete all sections of the form and attach copies of any required documents. You must provide a copy of the completed form and documents to the Mediation Service Provider by the date stated in your Mediation Scheduling Notice. You should also bring a copy to the mediation session and to any consultation with a housing counselor.

LOAN OR ACCOUNT NUMBER	LOAN SERVICER

BORROWER	CO-BORROWER
Borrower's Name	Co-Borrower's Name
Mailing Address	Mailing Address
Date of Birth	Date of Birth
Home Phone No.	Home Phone No.
Cell or Work No.	Cell or Work No.

INFORMATION ABOUT YOUR PROPERTY

Property Address (if same as mailing address, write "same")	
Is the property listed for sale? <input type="checkbox"/> Yes <input type="checkbox"/> No Have you received an offer? <input type="checkbox"/> Yes <input type="checkbox"/> No Date of offer: Amount of offer: \$ Agent's Name: Agent's Phone No.: For Sale by Owner? <input type="checkbox"/> Yes <input type="checkbox"/> No	Have you received housing counseling? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, please complete the following:</i> Counselor's Name: Agency Name: Counselor's Phone No.: Counselor's Email:
Who pays the property tax bill for your property? <input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by condo or HOA Are the taxes current? <input type="checkbox"/> Yes <input type="checkbox"/> No Condo or HOA Fees? <input type="checkbox"/> Yes <input type="checkbox"/> No \$ Paid to:	Who pays the hazard insurance premium for your property? <input type="checkbox"/> I do <input type="checkbox"/> Lender does <input type="checkbox"/> Paid by condo or HOA Is the policy current? <input type="checkbox"/> Yes <input type="checkbox"/> No Insurance Company: Insurance Co. Telephone No.:

Additional liens/mortgages or judgments on this property:			
Lien Holder's Name/Servicer	Balance	Contact Number	Loan Number

OTHER INFORMATION

I want: <input type="checkbox"/> Forbearance/repayment plan <input type="checkbox"/> Loan modification <input type="checkbox"/> Short sale <input type="checkbox"/> Deed-in-Lieu <input type="checkbox"/> Other (Describe):
The property is my: <input type="checkbox"/> Primary residence <input type="checkbox"/> Secondary residence <input type="checkbox"/> Investment
The property is: <input type="checkbox"/> Owner occupied <input type="checkbox"/> Renter occupied <input type="checkbox"/> Vacant
Have you filed for bankruptcy? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes: <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 13 Filing Date:
Has your bankruptcy been discharged? <input type="checkbox"/> Yes <input type="checkbox"/> No Bankruptcy Case No.:

**APPENDIX D TO
OAR 137-110-0610**

INCOME AND ASSETS

Monthly Household Income¹		Household Assets²	
Monthly Gross Wages	\$	Checking Account(s)	\$
Overtime	\$	Savings/Money Market	\$
Child Support, Alimony, Separation income ³	\$	CDs	\$
Social Security/SSDI	\$	Stocks/Bonds	\$
Pension, Annuity, Retirement Income	\$	Other Cash on Hand	\$
Tips, Commissions, Bonuses, Self-Employment Income	\$	Other Real Estate (estimated value)	\$
Rental Income	\$	Other:	\$
Unemployment	\$	Other:	\$
Food Stamps/Welfare	\$	Other:	\$
Other (investment income, royalties, interest, dividends, etc.)	\$	Other:	\$
Total Monthly Gross Income	\$		\$

¹ Include combined income from the borrower and co-borrower (if any).

² Do not include the value of life insurance or retirement plans when calculating assets (e.g., 401k, pension funds, annuities, IRAs, Keogh plans, etc.).

³ You are not required to disclose child support, alimony, or separation maintenance income unless you want to have that income considered by your servicer.

EXPENSES AND DEBTS

	Monthly	Annual	Total Owing
First Mortgage Payment	\$	\$	
Second Mortgage/Home Equity LOC Payment	\$	\$	
Property Taxes (if not paid to lender)	\$	\$	
Hazard Insurance (if not paid to lender)	\$	\$	
Condo or HOA Fees	\$	\$	
Car Payments	\$	\$	\$
Car Insurance	\$	\$	
Vehicle Gas and Maintenance	\$	\$	
Credit Cards and Installment Loan Payments	\$	\$	\$
Alimony and Child Support Payments	\$	\$	
Child Care	\$	\$	
Groceries	\$	\$	
Utilities (gas, electric, water, sewer, garbage)	\$	\$	
Communications (phone, internet)	\$	\$	
Medical and Dental Expenses	\$	\$	\$
Student Loan Payments	\$	\$	\$
Other			
Other	\$	\$	\$
Total Monthly Expenses/Debts	\$	\$	\$

HARDSHIP AFFIDAVIT

I am requesting review under the Making Home Affordable program and any other loss mitigation program for which I may qualify. I am having difficulty making my monthly payment because of financial difficulties created by (check all that apply and complete the explanation section):

<input type="checkbox"/> My household income has been reduced. For example, unemployment, underemployment, reduced pay or hours, decline in business earnings, death or disability, or divorce of a borrower or co-borrower	<input type="checkbox"/> My monthly debt payments are excessive and I am overextended with my creditors. Debt includes credit cards, home equity or other debt.
<input type="checkbox"/> My expenses have increased. For example, monthly mortgage payment reset, high medical or health care costs, uninsured losses, increased utilities or property taxes.	<input type="checkbox"/> My cash reserves, including all liquid assets, are insufficient to maintain my current mortgage payment and cover basic living expenses at the same time.

Other:

Explanation (or attach separate sheet of paper):

DOCUMENTS VERIFYING INCOME AND OCCUPANCY

You must provide to the Mediation Service Provider this completed form and all of the applicable documents described below on or before the date stated in your Mediation Scheduling Notice. If you fail to provide all required documents, your lender may not be able to determine that you are eligible for a foreclosure avoidance measure. For each document you are providing, check the appropriate box:

<input type="checkbox"/> Paystubs (two most recent months)	<input type="checkbox"/> Tax Returns (two most recent years)
<input type="checkbox"/> Profit and Loss Statement (if self-employed, most recent quarterly or year-to-date)	<input type="checkbox"/> Bank Statements (two most recent months)
<input type="checkbox"/> Benefits Statement or Letter from Provider (showing amount, frequency and duration of social security, disability, retirement, unemployment or other non-wage income)	<input type="checkbox"/> Electric, heat, gas or other utility bill (most recent)
<input type="checkbox"/> Divorce decree or separation agreement (if relying on child support, alimony or maintenance payments)	<input type="checkbox"/> Property Tax Statement or Appraisal/CMA (if available)

BORROWER ACKNOWLEDGEMENT

I/we represent the following:

1. That all of the information in this document is truthful to the best of my knowledge and belief.
2. I understand that the servicer will use the information in this document to evaluate my eligibility for a loan modification or other foreclosure avoidance measure and may investigate the accuracy of my statements and may request additional documentation, which I will provide.

Borrower Signature

Date

Co-Borrower Signature

Date

INFORMATION FOR GOVERNMENT PROGRAM MONITORING PURPOSES

The following information is requested by the state government in order to monitor compliance with federal statutes that prohibit discrimination in housing. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender or servicer may not discriminate either on the basis of this information, or on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, the lender or servicer is required to note the information on the basis of visual observation or surname if you have made a request for a loan modification in person. If you do not wish to furnish the information, please check the box below.

BORROWER: I do not wish to furnish this information

Ethnicity:

- Not Hispanic or Latino
- Hispanic or Latino

Race:

- Native Hawaiian or Other Pacific Islander
- Black or African American
- Asian
- American Indian or Alaska Native
- White

Sex:

- Female
- Male

CO-BORROWER: I do not wish to furnish this information

Ethnicity:

- Not Hispanic or Latino
- Hispanic or Latino

Race:

- Native Hawaiian or Other Pacific Islander
- Black or African American
- Asian
- American Indian or Alaska Native
- White

Sex:

- Female
- Male



STATE OF OREGON
FORECLOSURE AVOIDANCE MEDIATION PROGRAM
CERTIFICATE OF COMPLIANCE

MailToName
MailToAddress
MailToCityStateZip

Grantor:	<i>GrantorFullName</i>
Beneficiary:	<i>BeneficiaryName</i>
Property Address:	<i>PropertyAddress</i> <i>PropertyCityStateZip</i>
Instrument/Recording No./Date or Legal Description	

1. The Mediation Service Provider hereby certifies that:

- 01 The beneficiary or its agent appeared at mediation and complied with the requirements of Oregon Laws 2012, chapter 112, sections 4 and 5.
- 02 The grantor elected to enter into mediation but failed to appear at the time and place scheduled for mediation.
- 03 The grantor declined to enter into mediation with the beneficiary, or did not confirm intent to participate by the required date.

2. On *CertificateDate* I mailed a true copy of this certificate to the beneficiary and provided a copy to the grantor and the Attorney General electronically or by mail.



(Signature)

Signed and sworn to (or affirmed) by

(Printed name of person signing this affidavit)

Date

State of Oregon, County of *County*

Notary Public for Oregon
My commission expires:

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rule(s) adopted upon filing, by the
Oregon Department of Justice Date prior to or same as filing date
137

Agency and Division	Administrative Rules Chapter Number	
Carol Riches	1162 Court Street NE Salem, OR 97301	503-378-5555
Rules Coordinator	Address	Telephone

to become effective July 11, 2012 through January 6, 2013.

RULE CAPTION

Adopts Rules Required by 2012 Legislation to Implement Foreclosure Avoidance Measure Notices.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.
Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 137-120-0010; OAR 137-120-0020.


AMEND: Not applicable

SUSPEND: Not applicable

Stat. Auth.: Or Laws 2012, ch 112, § 4a(4)
Stats. Implemented: Or Laws 2012, ch 112

RULE SUMMARY

These rules implement Or Laws 2012, ch 112 § 4a (SB 1552). They specify the form and content of the notice issued by a beneficiary when the beneficiary determines that a grantor is not eligible for any foreclosure avoidance measure or that the grantor has not complied with the terms of a foreclosure avoidance measure to which the grantor has agreed. They also provide the address to which a copy of the notice must be sent to the Attorney General.

	Mary H. Williams	July 6, 2012
Authorized Signer	Printed name	Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. ARC 940-2005
Justice #3485601

Secretary of State
STATEMENT OF NEED AND JUSTIFICATION
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Justice
Agency and Division

137
Administrative Rules Chapter Number

In the Matter of: **Adoption of Chapter 137, Division 120, Rules to Implement Foreclosure Avoidance Measure Notices**

Rule Caption: **Adopts Rules Required by 2012 Legislation to Implement Foreclosure Avoidance Measure Notices.**

Statutory Authority: **Or Laws 2012, ch 112, § 4a (SB 1552)**

Other Authority:

Stats. Implemented: **Or Laws 2012, ch 112 (SB 1552)**

Need for the Temporary Rule(s):

Or Laws 2012, ch 112 § 4a (SB 1552) requires the Attorney General to adopt rules to implement the requirement that a beneficiary notify a grantor when the beneficiary determines that the grantor is not eligible for any foreclosure avoidance measure or that the grantor has not complied with the terms of a foreclosure avoidance measure to which the grantor has agreed. These rules do that.

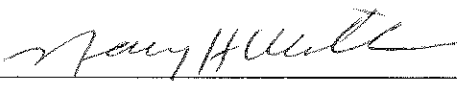
Documents Relied Upon, and where they are available:

Agendas and meeting documents of Foreclosure Mediation Workgroup meetings on March 23 and 30, 2012; April 6, 13 and 27, 2012; May 11 and 24, 2012; and, June 8, 2012, are available on line at http://www.doj.state.or.us/consumer/foreclosure_mediation_committee.shtml and from the Department's Rules Coordinator Carol Riches at 1162 Court Street NE, Salem, Oregon 97301-4096.

Or Laws 2012, ch 112 (SB 1552) is available on line at http://www.leg.state.or.us/12_reg/measpdf/sb1500.d.

Justification of Temporary Rule(s):

Or Laws 2012, ch 112, § 11, makes Or Laws 2012, ch 112 § 4a operative on July 11, 2012, which is 91 days after the effective date of the Act. The Act requires beneficiaries to notify a grantor when the beneficiary determines that the grantor is not eligible for any foreclosure avoidance measure or that the grantor has not complied with the terms of a foreclosure avoidance measure to which the grantor has agreed. It also subjects beneficiaries to potential civil liability for failure to properly send that notice. The Attorney General is required to adopt rules specifying the form and content of that notice and specifying the means of notifying the Attorney General when such a notice is issued. If those rules are not effective on July 11, 2012, implementation of the notice requirement will be delayed, thwarting the Legislative Assembly's express intent that the requirement be effective on that date. This delay would harm: (1) subject grantors' interest in receiving such notices on that date; (2) subject beneficiaries' interest in being able to comply with the law and avoid potential civil penalties; and (3) the state's interest in ensuring that the law is effective on the date specified by the legislature. Adoption of temporary rules effective July 11, 2012, would avoid those harms by making it possible for lenders to begin sending the required notices on that date.



Authorized Signer

Mary H. Williams
Printed name

July 6, 2012
Date

DIVISION 120

FORECLOSURE AVOIDANCE MEASURE NOTICES

137-120-0010

Application

These division 120 rules apply to any beneficiary seeking to foreclose a residential trust deed pursuant to ORS 86.705 to 86.795.

Stat. Auth.: OL 2012, ch 112, sec 4a

Stats. Implemented: OL 2012, ch 112, sec 4a

137-120-0020

Determination of Grantor Ineligibility for or Noncompliance With Foreclosure Avoidance Measure.

(1) If a beneficiary determines that a grantor is not eligible for any foreclosure avoidance measure or that the grantor has not complied with the terms of a foreclosure avoidance measure to which the grantor has agreed, the beneficiary or the beneficiary's agent shall serve a notice of that determination to the grantor as provided in ORS 86.740(1) that includes:

- (a) The name of the grantor;
 - (b) The name of the beneficiary;
 - (c) The address of the property at issue;
 - (d) A statement that the beneficiary has either:
 - (i) Determined that the grantor is not eligible for any of the following: a forbearance agreement, a temporary or permanent loan modification, a short sale, a deed-in-lieu of foreclosure, or any other foreclosure avoidance measure. The basis for the beneficiary's determination must be described with specificity in plain language; or
 - (ii) Determined that the grantor is not in compliance with the terms of an agreement for forbearance, a temporary or permanent loan modification, a short sale, a deed-in-lieu of foreclosure, or another foreclosure avoidance measure. The basis for the beneficiary's determination must be described with specificity in plain language;
 - (e) Stating each foreclosure avoidance measure considered;
 - (f) Stating whether the beneficiary has been able to make contact with the grantor or receive adequate response from the grantor. If the grantor is ineligible for a foreclosure avoidance measure because the beneficiary has been unable to make contact with the grantor or receive adequate response from the grantor, stating what efforts were made to contact the grantor and the inadequacy of the response;
 - (g) Stating the date specified for the property's trustee sale; and
 - (h) Provide contact information for low-cost legal service providers and the Oregon State Bar.
- (2) The notice described in section (1) of this rule shall substantially comply with the model form provided in the Appendix to these Division 120 rules and available as "Form 20" at http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml.
- (3) A copy of the notice described in section (1) of this rule shall be submitted to the Attorney General of Oregon at 1162 Court St. NE, Salem OR, 97301 or foreclosureavoidance@doj.state.or.us.

Stat. Auth.: OL 2012, ch 112, sec 4a(4)

Stats. Implemented: OL 2012, ch 112, sec 4a(4)

FORECLOSURE AVOIDANCE MEASURE NOTICE

YOU MAY LOSE YOUR PROPERTY IF YOU DO NOT TAKE ACTION IMMEDIATELY

Homeowner/Grantor:	
Lender/Beneficiary:	
Property Address:	

Your Lender has determined that:

- You are not eligible for any of the following: a forbearance agreement, a temporary or permanent loan modification, a short sale, a deed-in-lieu of foreclosure, or any other foreclosure avoidance measure. The following foreclosure avoidance measures were considered but are not available. The basis for the Lender's determination is (must be described with specificity in plain language):

- You are not in compliance with the terms of an agreement with your Lender for forbearance, a temporary or permanent loan modification, a short sale, a deed-in-lieu of foreclosure, or another foreclosure avoidance measure. The basis for the Lender's determination is (must be described with specificity in plain language):

Has the lender been able to make contact with the grantor or receive adequate response from the grantor?

- Yes No

If no, and the grantor is ineligible for a foreclosure avoidance measure because the lender has been unable to make contact with, or receive adequate response from the grantor, what efforts were made to contact the grantor and what was the nature of the grantor's response (must be described with specificity in plain language):

Your property is currently set for sale on _____ (time/date) at _____ (location). If you disagree with your Lender's determination, you should seek legal advice immediately.

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 211 or visit www.oregonhomeownersupport.gov . If you need help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636. Free legal assistance may be available if you are very low income. For more information and a directory of legal aid programs, go to www.oregonlawhelp.org.

[Beneficiary/Beneficiary's Agent]

By: _____

Date: _____