

Secretary of State  
Certificate and Order for Filing  
**PERMANENT ADMINISTRATIVE RULES**

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the Department of Justice 137

Agency and Division	Administrative Rules Chapter Number
<u>Carol Riches</u>	<u>(503) 947-4700</u>
Rules Coordinator	Telephone
<u>1162 Court St. NE, Salem, OR 97301</u>	
Address	

To become effective 01/31/2014 Rulemaking Notice was published in the December 2013 Oregon Bulletin.

**RULE CAPTION**

Adopts Rules Required by 2013 Legislation to Implement Oregon Foreclosure Avoidance Program

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

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

137-110-0300, 137-110-0605, 137-110-0675

**AMEND:**

137-110-0010, 137-110-0110, 137-110-0200, 137-110-0210, 137-110-0410, 137-110-0420, 137-110-0600, 137-110-0610, 137-110-0620, 137-110-0630, 137-110-0640, 137-110-0650, 137-110-0670

**REPEAL:**

137-110-0001, 137-110-0005, 137-110-0020, 137-110-0430, 137-110-0500, 137-110-0510, 137-110-0520, 137-110-0660

**RENUMBER:**

**AMEND AND RENUMBER:**

**Statutory Authority:**

Or Laws 2013, chapter 304, sections 2(1)(b), 2(2), 2(3), 3(1), 3(2), 3(4), 6(1)

**Other Authority:**

**Statutes Implemented:**

Or Laws 2013, chapter 304

**RULE SUMMARY**

These rules implement the Oregon Foreclosure Avoidance Program established by Oregon Laws 2013, chapter 304. These rules provide:

- The minimum training, qualifications and experience required of program facilitators;
- The fees that must be paid by the parties, the time of fee payments, and the requirements for obtaining a waiver by low-income grantors;
- The contents of the notices that will be issued by the service provider;
- The form for, and contents of, an affidavit exempting a beneficiary from the requirement to enter into a resolution conference with a grantor;
- The guidelines that provide for the role of program facilitators; the contents of the notices that will be issued by the service provider; documents required of both parties; procedures for rescheduling resolution conference sessions; role of interpreters; means of executing agreements; the form for, and contents of, the certificate of compliance or notice that no certificate of compliance will be issued to a beneficiary.

<b>FILED</b> 1-27-14 4:14 PM ARCHIVES DIVISION SECRETARY OF STATE
--

<u>Carol Riches</u>	<u>Carol.Riches@state.or.us</u>
Rules Coordinator Name	Email Address

## DIVISION 110

### OREGON FORECLOSURE AVOIDANCE PROGRAM

#### Definitions

#### 137-110-0010

##### Definitions

As used in these division 110 rules:

- (1) "Foreclosure avoidance facilitator roster" means the roster of qualified facilitators maintained by the service provider.
- (2) "Oregon Foreclosure Avoidance Program" means the resolution conference program established under Oregon Laws 2013, chapter 304.
- (3) "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 the resolution conference.
- (4) "Service provider website" means an internet-based system maintained by the service provider at <http://www.foreclosuremediationor.org> and designed to facilitate the exchange of necessary program-related documents and other information.

Stat. Auth.: Or Laws 2013, chapter 304

Stats. Implemented: Or Laws 2013, chapter 304

#### Facilitator Qualifications, Training and Experience

#### 137-110-0110

##### Facilitator Qualifications, Training and Experience

- (1) A facilitator conducting a resolution conference under the Oregon Foreclosure Avoidance Program shall:
  - (a) Have conducted at least 20 mediations or resolution conferences of any type or subject matter as a mediator or facilitator. Work performed as an assistant or apprentice under the supervision of a lead mediator or facilitator may also be counted toward the 20-resolution conference requirement. Observations of sessions may not count toward work performed as an assistant or apprentice;
  - (b) Provide evidence of at least 100 hours of mediation or resolution conference experience as a mediator or facilitator or as an assistant or apprentice mediator or facilitator. Work that a mediator or facilitator performs to prepare for and schedule the mediation or resolution conference or to prepare the parties for a mediation or resolution conference may be counted towards this 100-hour requirement. Observations of sessions may not count toward the 100-hour requirement;
  - (c) Disclose to the service provider the professional standards to which the facilitator 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) Provide evidence of successful participation in at least 16 hours of training on foreclosure avoidance programs and the substantive law and legal processes regarding foreclosures in Oregon including ORS Chapter 86; and

(f) Provide evidence of successful participation in at least 8 hours of training on the procedures, practices and policies of the Oregon Foreclosure Avoidance Program. This training shall include some interactive instruction, such as role-playing.

(2) The service provider may grant a waiver from the training requirements in subsections 1(d), 1(e) and 1(f) of this rule upon a showing by the facilitator of significant and related education or experience.

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

(a) Meets the minimum qualifications as a facilitator under these rules;

(b) Is included on the foreclosure avoidance resolution conference roster; or

(c) Is assigned to a resolution conference.

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

Stat. Auth.: Or Laws 2013, chapter 304, sec 6(1)(e)

Stats. Implemented: Or Laws 2013, chapter 304, sec 6(1)(e)

### **Fee Schedule**

#### **137-110-0200**

##### **Fees Paid by the Grantor, Fee Waiver**

(1) The grantor shall pay a fee of \$175 to the service provider at the time required by Oregon Laws 2013, chapter 304, section 3(2)(a). If there are joint or multiple grantors, only one grantor must pay this fee.

(2) The grantor may apply for a waiver of \$125 of the fee described in section (1) of this rule at the time the grantor is required by Oregon Laws 2013, chapter 304, section 3(2)(a), to pay the fee. The grantor shall pay \$50 at the time of the fee waiver request.

(3) A grantor's application for a fee waiver under section (2) of this rule shall be granted if the grantor is able to provide satisfactory evidence to the service provider that the grantor's annual household income is less than:

(a) \$ 23,340 for a household of one;

(b) \$ 31,460 for a household of two;

(c) \$ 39, 580 for a household of three;

(d) \$ 47,700 for a household of four;

(e) \$ 55,820 for a household of five;

(f) \$ 63,940 for a household of six;

(g) \$ 72,060 for a household of seven;

(h) \$ 80,180 for a household of eight;

(i) \$ 88,300 for a household of nine; or

(j) \$ 96,420 for a household of ten or more.

(4) The service provider shall decide whether to grant a grantor's application for a fee waiver made under section (2) of this rule within 10 days of receiving the application.

(5) If the service provider denies a grantor's application for a fee waiver made under section (2) of this rule, the grantor shall pay the remaining \$125 within 15 days of receiving the service provider's determination not to grant a fee waiver but never later than the date of the scheduled resolution conference.

(6) Failure by a grantor to timely pay fees will result in cancellation of the resolution conference.  
Stat. Auth.: Or Laws 2013, chapter 304, sec 3(2)(a), 6(1)(g)  
Stats. Implemented: Or Laws 2013, chapter 304, sec 3(2)(a)

### **137-110-0210**

#### **Fees Paid by Beneficiary**

(1) If a beneficiary requests a resolution conference, the beneficiary shall pay a \$200 processing fee to the service provider at the time of making the request. The beneficiary shall pay an additional \$325 to the service provider within 25 days after the service provider makes the grantor's documents available to the beneficiary, as required by Oregon Laws 2013, chapter 304, section 3(4)(a).

(2) If a grantor requests a resolution conference, the beneficiary or the beneficiary's agent shall pay a fee of \$525 to the service provider within 25 days after the service provider makes the grantor's documents available to the beneficiary, as required by Oregon Laws 2013, chapter 304, section 3(4)(a).

(3) If a lienholder other than a beneficiary who requested the resolution conference participates, the lienholder is not required to pay a fee under this rule.

(4) A beneficiary that is otherwise exempt from the requirement to participate in a resolution conference with a grantor pursuant to Oregon Laws 2013, chapter 304, section 2(1)(b), may participate in a resolution conference by:

(a) Submitting a request for a resolution conference in the manner prescribed by OAR 137-110-0410;

(b) Paying \$325 within 25 days of the date on which the grantor makes the documents required by OAR 137-110-0610 available to the service provider; and

(c) Following the resolution conference guidelines set forth in OAR 137-110-0600 to 137-110-0670.

(5) The service provider and beneficiary may enter into an agreement allowing the fees described in sections (1)-(4) of this rule to be paid in regular lump sums.

Stat. Auth.: Or Laws 2013, chapter 304, sec 2(2), 3(4)(a), 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 2(2), 3(4)(a)

### **Beneficiary Exemptions**

#### **137-110-0300**

##### **Beneficiary Exemptions**

(1) Beneficiaries claiming an exemption from the requirement to participate in a resolution conference with a grantor under Or Laws 2013, chapter 304, section 2(1)(b) shall submit an affidavit that substantially complies with the model form provided in Appendix A to these division 110 rules and available as "Form 300" at

[http://www.doj.state.or.us/consumer/foreclosure\\_mediation.shtml](http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml). The affidavit may be submitted to the Attorney General either:

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

(b) By electronic mail addressed to [DOJ@foreclosuremediationOR.org](mailto:DOJ@foreclosuremediationOR.org).

Stat. Auth.: Or Laws 2013, chapter 304, sec 2(1)(b), sec 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 2(1)(b)

## Requesting A Resolution Conference

### 137-110-0410

#### **Beneficiary Request for Resolution Conference**

(1) A beneficiary may request a resolution conference under Oregon Laws 2013, chapter 304, section 2(2), by submitting the request, applicable fees, and required information to the service provider using the service provider website or by facsimile or mail. The beneficiary's request under this rule must identify the residential trust deed that the beneficiary intends to foreclose and list the name, title, last known mailing address and telephone number, and other available contact information for:

- (i) The beneficiary;
- (ii) Any agent of the beneficiary that will attend the resolution conference;
- (iii) Any person other than a person identified in paragraph (a) or (b) of Oregon Laws 2013, chapter 304, section 2(2) that will receive, on the beneficiary's behalf, notices or other communications related to the resolution conference; and
- (iv) The grantor.

(2) If the information provided in section (1) of this rule changes prior to the resolution conference, the beneficiary shall update that information with the service provider.

Stat. Auth.: Or Laws 2013, chapter 304, sec 2(2); sec 6(1)(f) and sec 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 2(2); sec 6(1)(f) and sec 6(1)(g)

### 137-110-0420

#### **Grantor Request for Resolution Conference**

(1) A grantor may request a resolution conference either:

(a) Through a housing counselor who may request a resolution conference on behalf of the grantor by using the service provider website to certify that the grantor is more than 30 days in default on the obligation that the residential trust deed secures or, if the grantor is not in default, that the grantor has a financial hardship that the housing counselor believes may qualify the grantor for a foreclosure avoidance measure.

(b) By submitting a request to the service provider electronically via e-mail or the service provider website, by facsimile, or by mail. The request shall include a certification by a housing counselor that the grantor is more than 30 days in default on the obligation that the residential trust deed secures or, if the grantor is not in default, that the grantor has a financial hardship that the housing counselor believes may qualify the grantor for a foreclosure avoidance measure.

Stat. Auth.: Or Laws 2013, chapter 304, sec 2(3), 3(2), 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 2(3), 3(2), 3(3), 6(1)(g)

## Resolution Conference Guidelines

### 137-110-0600

#### **Facilitator Authority and Role**

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

(2) The facilitator and the service provider may rely on assertions made in the documents provided by the parties and need not make an independent inquiry.

(3) The facilitator 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 facilitator's skills and the specific resolution conference approaches the facilitator uses;
  - (c) Support the ability of the parties to make informed decisions regarding the resolution conference process and outcomes by ensuring that parties are provided with information regarding the resolution conference process and that relevant documents are available to the parties;
  - (d) Conduct resolution conferences 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 facilitator's relationship or experience that reasonably raise a question about the facilitator's impartiality;
  - (f) Affirmatively disclose to the service provider and the parties any actual, potential or perceived conflicts of interest that could raise a question about the facilitator's impartiality;
  - (g) Where a party, the facilitator or the service provider questions the facilitator's ability to act impartially, and the issue cannot be resolved to the satisfaction of the questioner, the facilitator shall decline to serve or withdraw if already serving as the facilitator in a particular resolution conference. Having questioned a facilitator's impartiality, and that facilitator having declined to serve, the ability of a party to exclude any subsequent facilitator shall be at the discretion of the service provider;
  - (h) Not engage in any other services, other than the resolution conference, 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.
- Stat. Auth.: Or Laws 2013, chapter 304, sec 6(1)(e), 6(1)(f)  
 Stats. Implemented: Or Laws 2013, chapter 304, sec 6(1)(e), 6(1)(f)

**137-110-0605**

**Resolution Conference Scheduling**

- (1) Within 10 days after the date on which the beneficiary or grantor requested a resolution conference as provided in Oregon Laws 2013, chapter 304, section 2, the service provider shall send a Notice of Resolution Conference to the grantor and beneficiary. The notice must:
  - (a) Specify a range of dates within which and a location at which the resolution conference will occur;
  - (b) State that the beneficiary and the grantor must each pay the facilitator's fees for the resolution conference;
  - (c) List and describe the documents that the beneficiary and grantor must submit to the service provider;
  - (d) State that the grantor must consult a housing counselor before attending the resolution conference unless the grantor notifies the service provider that the grantor could not obtain an appointment with a housing counselor before the date of the resolution conference;
  - (e) State that the grantor may have an attorney or housing counselor present to represent the grantor at the resolution conference, and that the grantor must attend the resolution conference in person unless there are compelling circumstances that prevent attendance in person;
  - (f) Provide contact information for:
    - (i) The Oregon State Bar's Lawyer Referral Service;
    - (ii) Service agencies or other providers that offer free or low-cost legal services; and

(iii) A list of not-for-profit housing counselors approved the Oregon Housing and Community Services Department.

(2) Within 5 days after receiving the grantor's fee, the service provider shall send a written notice to the grantor and the beneficiary that specifies the date, time and location of the resolution conference.

Stat. Auth.: Or Laws 2013, chapter 304, sec 3(1), 3(2), 3(4), 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 3(1), 3(2), 3(4), 6(1)(g)

### **137-110-0610**

#### **Documents Required of the Grantor**

(1) The grantor shall provide the following documents to the service provider for provision to the beneficiary within 25 days after the date on which the service provider sends a Notice of Resolution Conference:

(a) A completed "Universal Intake Form" provided in Appendix B and available by selecting "Form 610" at [http://www.doj.state.or.us/consumer/foreclosure\\_mediation.shtml](http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml) or a substantially similar form;

(b) Information about the grantor's income, expenses, debts and other obligations;

(c) A description of the grantor's financial hardship, if any;

(d) Documents that verify the grantor's income.

(2) In addition to the documents listed in subsection (1), a grantor's successor-in-interest shall provide documents that establish the person's identity and legal interest in the property, including but not limited to letters testamentary, letters of administration, or a court certified copy of a small estate affidavit.

(3) Within 5 days of receiving documents provided by the grantor, the service provider shall make those documents available to the beneficiary using the service provider website. The service provider shall provide the documents to the beneficiary in an alternative format upon request.

(4) If a grantor fails to timely provide documents as required by Oregon Laws 2013, chapter 304 and section (1) of this rule, the grantor and the beneficiary shall nevertheless appear at the resolution conference. A grantor who does not timely provide a document required by this rule is at increased risk of the resolution conference concluding without reaching an agreement for a foreclosure avoidance measure.

(5) The Oregon Foreclosure Avoidance Program may ask grantors to provide documents that contain social security numbers. The Program will inform grantors that it does not require them to provide their social security numbers, but that grantors may do so voluntarily to facilitate resolution with the beneficiary. The Program will tell grantors that if they provide their social security numbers, the numbers will be disclosed to the beneficiary, the grantor's housing counselor and the facilitator for the purposes of the resolution conference and to the service provider for the purpose of ensuring that the grantor has submitted the necessary documents.

Stat. Auth.: Or Laws 2013, chapter 304, sec 3(2)(c) and 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 3(2)(c) and 6(1)(g)

### **137-110-0620**

#### **Documents Required of the Beneficiary**

(1) Within 25 days after the service provider makes the information the grantor provided under Oregon Laws 2013, chapter 304, and OAR 137-110-0610 available to the beneficiary, the

beneficiary shall provide the following documents to the service provider for provision to the grantor:

(a) Copies of:

(i) The residential trust deed; and

(ii) The promissory note that is evidence of the obligation that the residential trust deed secures and that the beneficiary or beneficiary's agent certifies is a true copy;

(b) The name and address of the person that owns the obligation that is secured by the residential trust deed;

(c) A record of the grantor's payment history for the longer of the preceding 12 months or since the beneficiary last deemed the grantor current on the obligation;

(d) An itemized statement that shows:

(i) The amount the grantor owes on the obligation, itemized to reflect the principal, interest, fees, charges and any other amounts included within the obligation; and

(ii) The amount the grantor must pay to cure the grantor's default;

(e) A document that identifies:

(i) The input values for each net present value model that the beneficiary or the beneficiary's agent uses in this transaction; and

(ii) The output values that each net present value model produces;

(f) The appraisal or price opinion the beneficiary relied on most recently to determine the value of the property that is the subject of the residential trust deed;

(g) The portion of any pooling agreement, servicing agreement or other agreement that the beneficiary cites as a limitation or prohibition on modifying the terms of the obligation, together with a statement that describes the extent to which the beneficiary sought to have the limitation or prohibition waived;

(h) A description of any additional documents the beneficiary requires to evaluate the grantor's eligibility for a foreclosure avoidance measure.

(2) Nothing in section (1)(e) 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.

(3) 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 resolution conference. A beneficiary who fails to provide a document required by this rule is at risk of the resolution conference concluding without the beneficiary receiving a certificate of compliance.

Stat. Auth.: Or Laws 2013, chapter 304, sec 3(4)(b) and 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 3(4)(b) and 6(1)(g)

### **137-110-0630**

#### **Rescheduling the Resolution Conference**

(1) Upon written request from both the grantor and beneficiary, the service provider may reschedule the resolution conference to a mutually agreed-upon date. Written notice shall be provided by facsimile, electronic mail, regular mail, or through the service provider's website.

(2) Upon written request from either grantor or beneficiary, and upon good cause shown, the service provider may reschedule the resolution conference for not more than 30 days after the original date scheduled for the resolution conference. The request shall set forth the circumstances demonstrating good cause with particularity and shall be provided by facsimile, electronic mail, regular mail, or through the service provider's website.



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

Stat. Auth.: Or Laws 2013, chapter 304, sec 6(1)(f), 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 3(5), 6(1)(f), 6(1)(g)

### **137-110-0640**

#### **Confidentiality**

(1) No videotaping, transcription or other recording of resolution conferences is permitted except by written agreement of the parties and the facilitator.

Stat. Auth.: Or Laws 2013, chapter 304, sec 6(1)(f), 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 3(5), 6(1)(f), 6(1)(g)

### **137-110-0650**

#### **Participation in the Resolution Conference**

(1) Any party wishing to participate in a resolution conference 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 resolution conference, the resolution conference may nevertheless occur with the consent of the beneficiary.

(3) The grantor, or any individual that a court appoints to act on the grantor's behalf, must attend the resolution conference in person unless there are compelling circumstances that prevent attendance in person.

(4) The service provider may assist the parties in obtaining an interpreter. However, if the 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 resolution conference will be determined by the facilitator.

(5) Any mediator or facilitator wishing to observe a resolution conference for training purposes may only do so with the written consent of all participants.

Stat. Auth.: Or Laws 2013, chapter 304, sec 6(1)(f), 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 6(1)(f), 6(1)(g)

### **137-110-0670**

#### **Certificate of Compliance**

(1) The service provider shall issue a certificate of compliance if:

(a) The grantor fails to timely pay the fee required by Oregon Laws 2013, chapter 304, section 3(2)(a) and OAR 137-110-200; or

(b) The service provider receives a report from the facilitator that complies with Oregon Laws 2013, chapter 304, section 4(4) and the beneficiary has:

(i) Submitted the materials required under section 3(4) of Oregon Laws 2013, chapter 304, to the service provider;

(ii) Appeared in person at, or sent an agent to, the resolution conference with complete authority to negotiate on the beneficiary's behalf and commit the beneficiary to a foreclosure avoidance measure, or if the beneficiary or agent did not have complete authority, required the participation by remote communication of a person with complete authority to negotiate on the beneficiary's behalf and commit the beneficiary to a foreclosure avoidance measure;

- (iii) Signed a document that sets forth the terms of any foreclosure avoidance measure to which the beneficiary and the grantor agreed; and
  - (iv) Complied with sections 2, 3, and 4 of Oregon Laws 2013, chapter 304.
- (2) The certificate of compliance that has been signed and notarized by the service provider shall be issued to the beneficiary or the beneficiary's agent no later than five days following:
- (a) Cancellation of the resolution conference if the certificate is issued pursuant to section (1)(a) of this rule.
  - (b) Receipt of the facilitator's report under Oregon Laws 2013, chapter 304, section 4(4) if the certificate is issued pursuant to section (1)(b) of this rule.
- (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 the resolution conference and complied with sections 2, 3, and 4 of Oregon Laws 2013, chapter 304; or
    - (ii) The grantor failed to timely pay the fee required by Oregon Laws 2013, chapter 304, section 3(2)(a), and OAR 137-110-0200.
- (4) The certificate of compliance described in this rule shall substantially comply with the model form provided in Appendix C to these division 110 rules and available as "Form 670" at [http://www.doj.state.or.us/consumer/foreclosure\\_mediation.shtml](http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml).
- (5) Unless otherwise requested, the service provider shall mail the original certificate of compliance to the beneficiary(ies) or, if a beneficiary is represented by an attorney, the beneficiary's attorney. The service provider shall mail a copy of the certificate to the grantor(s).  
 Stat. Auth.: Or Laws 2013, chapter 304, sec 6(1)(f), 6(1)(g)  
 Stats. Implemented: Or Laws 2013, chapter 304, sec 5, 6(1)(f), 6(1)(g)

**137-010-0675**

**Notice That No Certificate of Compliance Will Be Issued**

- (1) If a beneficiary failed to meet a requirement to which the beneficiary was subject under sections 2, 3 or 4 of Oregon Laws 2013, chapter 304, the service provider shall issue a notice explaining why the service provider will not issue a certificate of compliance.
- (2) The service provider may cancel a resolution conference if, prior to the date the resolution conference first convenes, the grantor and beneficiary agree to cancel the conference and confirm their agreement in writing to the service provider. The service provider shall issue a notice explaining why the service provider will not issue a certificate of compliance.
- (3) This notice issued under section (1) of this rule shall substantially comply with the model form provided in Appendix D to these division 110 rules and available as "Form 670a" at [http://www.doj.state.or.us/consumer/foreclosure\\_mediation.shtml](http://www.doj.state.or.us/consumer/foreclosure_mediation.shtml). Unless otherwise requested, the service provider shall mail the notice described in this rule to the beneficiary(ies) or, if a beneficiary is represented by an attorney, the beneficiary's attorney. The service provider shall mail a copy of the notice described in this rule to the grantor(s).

(4) Unless otherwise requested, the service provider shall mail the notice described in this rule to the beneficiary(ies) or, if a beneficiary is represented by an attorney, the beneficiary's attorney. The service provider shall mail a copy of the notice described in this rule to the grantor(s).

Stat. Auth.: Or Laws 2013, chapter 304, sec 6(1)(f), 6(1)(g)

Stats. Implemented: Or Laws 2013, chapter 304, sec 5, 6(1)(f), 6(1)(g)

**After recording, return to:**

**OREGON FORECLOSURE AVOIDANCE PROGRAM  
BENEFICIARY EXEMPTION AFFIDAVIT**

<b>Lender/Beneficiary:</b>	
<b>Jurisdiction*</b>	

\*If Lender/Beneficiary is not a natural person, provide the state or other jurisdiction in which the Lender/Beneficiary is organized.

I, \_\_\_\_\_ (printed name) being first duly sworn, depose, and state that:  
This affidavit is submitted for a claim of exemption to the Office of the Attorney General of Oregon under Oregon Laws 2013, chapter 304, §2(1)(b).

- 1. The above named individual or entity commenced or caused an affiliate or agent of the individual or entity to commence the following number of actions to foreclose a residential trust deed by advertisement and sale under ORS 86.735 or by suit under ORS 88.010 during the calendar year preceding the date of this affidavit: \_\_\_\_\_ [*not to exceed 175*];
- 2. The undersigned further certifies that she/he: [*check only one of the following boxes*]  
 is the individual claiming exemption from requirements established under Or Laws 2013, ch 304, or  
 is the \_\_\_\_\_ [*insert title*] of the entity claiming exemption from requirements established under Or Laws 2013, ch 304, and is authorized by such entity to execute this affidavit on its behalf.

\_\_\_\_\_  
(Signature)

State of \_\_\_\_\_ )  
) ss.

County of \_\_\_\_\_ )

Signed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
by \_\_\_\_\_

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
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 housing counseling? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Have you received an offer? <input type="checkbox"/> Yes <input type="checkbox"/> No	<i>If yes, please complete the following:</i>		
Date of offer:                      Amount of offer: \$	Counselor's Name:		
Agent's Name:	Agency Name:		
Agent's Phone No.:	Counselor's Phone No.:		
For Sale by Owner? <input type="checkbox"/> Yes <input type="checkbox"/> No	Counselor's Email:		
Who pays the property tax bill for your property?	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	<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	Is the policy current? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Condo or HOA Fees? <input type="checkbox"/> Yes <input type="checkbox"/> No \$	Insurance Company:		
Paid to:	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.:

INCOME AND ASSETS			
Monthly Household Income <sup>1</sup>		Household Assets <sup>2</sup>	
Monthly Gross Wages	\$	Checking Account(s)	\$
Overtime	\$	Savings/Money Market	\$
Child Support, Alimony, Separation income <sup>3</sup>	\$	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:	\$
<b>Total Monthly Gross Income</b>	<b>\$</b>		<b>\$</b>

<sup>1</sup> Include combined income from the borrower and co-borrower (if any).

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

<sup>3</sup> 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. |
| <input type="checkbox"/> 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:
- That all of the information in this document is truthful to the best of my knowledge and belief.
  - 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.

<b><u>BORROWER:</u></b> I do not wish to furnish this information	<b><u>CO-BORROWER:</u></b> I do not wish to furnish this information
<p><b>Ethnicity:</b>            Not Hispanic or Latino            Hispanic or Latino</p> <p><b>Race:</b>            Native Hawaiian or Other Pacific Islander            Black or African American            Asian            American Indian or Alaska Native            White</p> <p><b>Sex:</b>            Female            Male</p>	<p><b>Ethnicity:</b>            Not Hispanic or Latino            Hispanic or Latino</p> <p><b>Race:</b>            Native Hawaiian or Other Pacific Islander            Black or African American            Asian            American Indian or Alaska Native            White</p> <p><b>Sex:</b>            Female            Male</p>





**CERTIFICATE OF COMPLIANCE**  
**STATE OF OREGON**  
**FORECLOSURE AVOIDANCE PROGRAM**

MailTo Beneficiary Name  
BeneAddress1  
BeneAddress2  
BeneficiaryCityStateZip

Print Date

<b>Grantor:</b>	GrantorName
<b>Beneficiary:</b>	BeneficiaryName
<b>Property Address:</b>	PropertyAddress
<b>Instrument/Recording No. Date and County</b>	
<b>Case Number</b>	

1. The Service Provider hereby certifies that:

The beneficiary and/or its agent complied with the requirements of Oregon Laws 2013, Chapter 304, sections 2, 3, and 4;  
or

The grantor did not pay the required fee by the date the fee was due.

2. On this date, I mailed the original certificate to the beneficiary and provided a copy to the grantor and the Attorney General electronically or by mail.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Program Coordinator, Oregon Foreclosure Avoidance Program

STATE OF OREGON            )  
  ) ss.  
County of \_\_\_\_\_        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires:



**NOTICE: NO CERTIFICATE OF  
COMPLIANCE WILL BE ISSUED**  
STATE OF OREGON  
FORECLOSURE AVOIDANCE PROGRAM

MailTo Beneficiary Name  
BeneAddress1  
BeneAddress2  
BeneficiaryCityStateZip

Print Date

<b>Grantor:</b>	GrantorName
<b>Beneficiary:</b>	BeneficiaryName
<b>Property Address:</b>	PropertyAddress
<b>Instrument/Recording No. Date and County</b>	
<b>Case Number</b>	

1. The Service Provider hereby certifies that the beneficiary and/or its agent did not comply with SB 558, sections 2, 3, and 4 as follows:

- Did not appear in person at, or did not send an agent in person to, the resolution conference with complete authority to negotiate on the beneficiary's behalf and commit the beneficiary to a foreclosure avoidance measure or, if the beneficiary or agent did not have complete authority, did not provide the participation by remote communication of a person with complete authority to negotiate on the beneficiary's behalf and commit the beneficiary to a foreclosure avoidance measure;
- Did not submit the following materials required under section 3(4) of this 2013 Act to the service provider: \_\_\_\_\_
- Did not sign a document that sets forth the terms of any foreclosure avoidance measure to which the beneficiary and grantor agreed, if any; or
- Otherwise did not comply with SB 558, sections 2, 3, and 4 in the following way:  
\_\_\_\_\_

2. On this date I mailed the original notice to the beneficiary and provided a copy to the grantor and the Attorney General electronically or by mail.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed name)

\_\_\_\_\_  
Date