



## OREGON LAND TITLE ASSOCIATION

### **RE: HB 3294 Relating to removal of discriminatory language from recorded instruments; creating new provisions; and amending ORS 93.274**

Dear Chair Kropf, Vice-Chairs Anderson and Wallan, and Members of the House Committee on Judiciary,

Thank you for providing the opportunity to submit comments on House Bill 3294. The Oregon Land Title Association (OLTA) is the professional association for the title insurance industry in Oregon, and membership includes title insurance underwriters and underwritten title agent companies, many of which are locally owned throughout the State. OLTA works with regulators, legislators, county clerks, and the public to ensure the title industry is responsive to evolving customer needs. OLTA promotes the educational, ethical, professional and legislative interests of the title industry.

If passed in its current form, HB 3294 would have an unintended impact on real property titles and matters related to real property ownership and unrelated to discriminatory language in recorded documents. **OLTA has no position regarding the policy behind HB 3294.**

OLTA seeks to provide technical comments regarding the potential unintended consequences of the bill. OLTA raises these concerns on behalf of Oregonians who have no idea how HB 3294 may affect title to real property as reflected in public records maintained by the county clerks.

In its current form, HB 3294 requires the county clerk to remove a previously-recorded instrument from the public records and to record a corrected instrument in place of the original instrument. When recorded, instruments such as deeds and CCRs establish a priority position based on the date of recording. Most, if not all, recorded documents that contain illegal discriminatory language include other provisions pertaining to the subject real property. For example, discriminatory language may appear in a deed that conveys title to the real property. Discriminatory language may appear in CCRs that also contain provisions creating easements necessary to obtain access to the property or access to utilities such as power, sewer, and water, creating setbacks, or other non-discriminatory restrictions.

If HB 3294 is passed in its current form, the priority and enforceability of other provisions in the original instrument may be affected by removal and replacement with a new recorded instrument. This effect will jeopardize real property titles and real property transactions statewide. This effect will jeopardize the public records which the county clerks currently maintain and which Oregonians and title companies rely upon to establish title to real property and other necessary amenities such as easements and other restrictions.

OLTA joins with the County Clerks in offering technical input and assistance as may be needed to avoid the unintended consequences of the bill in its current form. OLTA would be willing to participate in conversations around amendment language to address these concerns, or join an interim work group with the goal of introducing a consensus legislative concept in 2024.

Thank you for your consideration of this input from OLTA.

**Submitted by Patricia Ihnat, Co-Chair, OLTA Legislative Committee  
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