



OREGON LAND TITLE ASSOCIATION

RE: HB 2009 Relating to strategies to protect Oregonians from the effects of the COVID-19 pandemic; creating new provisions; amending ORS 86.707, 86.726, 86.729, 86.732 and 86.736 and section 2, chapter 4, Oregon Laws 2020 (first special session); and declaring an emergency.

Chair Holvey and Representatives of the House Committee on Business and Labor,

Thank you for providing the opportunity to submit comments on HB 2009. 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 agent companies, many of which are locally owned throughout the State. OLTA promotes the educational, ethical, professional and legislative interests of the title industry. OLTA works with regulators, legislators and the public to ensure the title industry is responsive to evolving customer needs.

OLTA does not oppose HB 2009. Instead, OLTA seeks to provide comments and suggestions for amendments that may serve to provide clarity, and to address certain circumstances arising between the expiration on Dec 31, 2020 of foreclosure relief under Chapter 4, Oregon Laws 2020 First Special Session (HB 4204) and the effective date of HB 2009.

1. If passed, HB 2009 would apply the foreclosure moratorium retroactively to December 31, 2020, which is the date the last moratorium expired under Chapter 4, Oregon Laws 2020 First Special Session (HB 4204). See, e.g., HB 2009, Sections 1(2)(b), 10(a)(A), and 11 of HB 2009.

In HB 4204, Section 1, subsection (5) allowed pending foreclosures to resume after Dec 31, 2020. Since Dec 31, 2020, and prior to the effective date of HB 2009, executions sales, trustee's sales, and forfeitures under land sale contracts have been and will be completed pursuant to those provisions in the 2020 legislation. It appears HB 2009 must be amended to exempt foreclosures (execution sales, trustee's sales, and forfeitures under land sale contracts) completed after Dec 31, 2020, and prior to the effective date of HB 2009. An appropriate place to include such an amendment may be Section 10 of HB 2009.

2. HB 2009, Section 1, subsection (2) contains definitions, many of which reference the definitions in ORS 86.705. It may be appropriate to amend the definition of "Subject property" in Section 1, subsection (2)(g) for clarity if the Sponsors' intention was to apply HB 2009 only to one-to-four family dwelling units. Otherwise, there may be an argument that use of the broader term "four or fewer improvements" could mean apartment buildings, which are used primarily and designed for residential use. ORS 86.705(6) is instructive. Suggested amendment is below.

(g)"Subject property" means real property upon which is situated four or fewer **residential units** **improvements** used primarily and designed solely for residential use.

3. Section 1, subsection (8)(a) provides for borrower's right to sue lender for damages if lender violates the provisions of HB 2009. This section could be modified to include borrower's right to sue lender to void any trustee's sale, execution sale, or forfeiture which borrower claims was completed in violation of HB 2009 if lender disputes borrower's claim. If such an amendment is included, it should state borrower is required to record a notice of pendency of action.

Thank you.

Submitted by Patricia Ihnat, Chair, OLTA Legislative Committee
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