



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 Wagner, Vice-Chair Girod, and Members of the Senate Committee on Rules,

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, county clerks, and the public to ensure the title industry is responsive to evolving customer needs.

If passed, HB 2009 would apply the foreclosure moratorium retroactively to December 31, 2020. The 2020 moratorium under Chapter 4, Oregon Laws 2020 First Special Session (HB 4204) expired on this date. **OLTA has no position regarding the policy behind HB 2009.** Proposed amendments A12 and A10 do not resolve issues we've raised from the retroactive application of the 2021 moratorium provided in HB 2009.

OLTA is raising these concerns on behalf of Oregonians who have no idea how HB 2009 will affect title to properties they purchased through or after foreclosures completed between January 1, 2021 and the effective date of HB 2009, during a time when there was no moratorium in place and legal foreclosures have been occurring. **There are potentially dozens or hundreds of citizens whose title to real property is jeopardized by the passage of HB 2009.** These constituents may be unable to resell or refinance their properties if HB 2009 is passed in its current form.

For example, on January 5, 2021, a foreclosure trustee conducted a trustee's sale under a trust deed in which the borrower and the lender were individuals. The property is located in Newport. The successful bidder at the trustee's sale was another individual who received a trustee's deed for the property after she paid her bid price to the trustee. Those funds have since been distributed by the trustee to the individual lender who was the beneficiary named in the trust deed. In late April 2021, the purchaser at the trustee's sale sold the property to a new owner who resides in Lincoln County. **If passed in its current form, HB 2009 would jeopardize title owned by this recent purchaser.** Other examples similar to this exist throughout the State.

We have heard there may be concerns about whether foreclosures completed between January 1, 2021, and the effective date of HB 2009 are somehow illegal or in violation of existing law. For foreclosures that were pending when Chapter 4, Oregon Laws 2020 First Special Session (HB 4204) was enacted, that bill contained specific provisions governing resumptions of foreclosures after the moratorium ended on December 31, 2020. **Many of those foreclosures have been legally resumed and completed.** Concerns about whether there will be a rush to start and complete foreclosures prior to the effective date of HB 2009 are addressed by the fact the foreclosure processes in Oregon require compliance with applicable statutes under which processes and time periods must be followed and **cannot be expedited or rushed to completion.**

If passed, HB 2009 will cloud title to properties purchased through foreclosure since January 1, 2021. An amendment to Section 1, Subsection (10) of HB 2009 is appropriate to exempt from the 2021 moratorium any trustee's sales, execution sales, or affidavits of forfeiture concluded before the effective date of the bill.

Thank you for your consideration of this input from OLTA.

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