

REVENUE: No revenue impact
FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	4 - 0 - 1
Yeas:	Bates, Beyer, Prozanski, Avakian
Nays:	0
Exc.:	Atkinson
Prepared By:	Sue Marshall, Administrator
Meeting Dates:	5/15, 5/24

WHAT THE MEASURE DOES: Establishes a process by which a county or city may validate and an owner may record an established unit of land if the unit was unlawfully created by a previous owner on or before January 1, 2007. Prohibits recording of a fee title without inclusion of recording number of approved final subdivision plat or partition plat, or a statement signed by the authorized county or city planning department stating that the division of land is lawful. Requires seller of property to disclose whether unit of land being transferred is lawfully established.

ISSUES DISCUSSED:

- Extent of problem of unlawful units of land and impact on buyers
- Notification of potential buyers
- Legal liability and burden of proof on sellers
- Difficulty in finding documentation and subsequent burden on seller and realtor
- Difficulty obtaining development permit on property located in two jurisdictions
- Recording requirements placing additional burden on county clerks
- Accountability of seller and realtor
- Whether deed transactions will be delayed

EFFECT OF COMMITTEE AMENDMENT: Requires inclusion of reference to the recording number of an approved final subdivision plat or partition plat or a statement signed by the authorized county or city planning department that the division of land is lawful, prior to recording a fee title. Revises the owner disclosure statement question on page seven related to an unlawfully established unit of land so that a “no” response is the preferred response.

BACKGROUND: The Department of Land Conservation and Development and others report that parcels of land have been sold in Oregon without the buyer’s knowledge that a parcel was not lawfully established. In some cases, land may have been divided to create a separate tax account, but is not a legal subdivision. In other cases, local governments have granted building permits on unlawfully established lots without proof of legal land division thereby reinforcing the appearance to prospective buyers that the lot is a legal parcel. Purchasers of illegally divided lots have been denied building or other permits necessary to use or develop their land. Title insurance policies exclude zoning related claims and leave buyers with limited recourse after unwittingly purchasing an illegal lot. Current law provides unclear authority for cities or counties to subsequently approve a lot or issue a building permit for a lot that was unlawfully divided and sold.