

REVENUE: No revenue impact

FISCAL: No fiscal impact

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| Action: | Do Pass as Amended and Be Printed Engrossed |
| Vote: | 8 - 0 - 1 |
| Yeas: | Barker, Bonamici, Cameron, Komp, Krieger, Read, Whisnant, Macpherson |
| Nays: | 0 |
| Exc.: | Flores |
| Prepared By: | Miranda Plummer, Counsel |
| Meeting Dates: | 3/27, 4/13 |

WHAT THE MEASURE DOES: Prohibits county clerks from removing or redacting extraneous information from a properly filed and recorded instrument from the records. States that county clerks will not incur civil or criminal liability for refusing to remove or redact extraneous information from a properly filed and recorded instrument from the records.

ISSUES DISCUSSED:

- Deletion of immunity shield in potential amendment
- Effect of court order on prohibition
- Frequency of redaction requests because of identity theft concerns
- Citizens' ability to personally redact extraneous information

EFFECT OF COMMITTEE AMENDMENT: Deletes clerks' immunity for refusing to remove or redact extraneous information from a properly filed instrument. Requires clerks to record, and make available for inspection, instruments without regard to whether they contain non-required information. Offers immunity from civil and criminal liability when clerks record instruments that contain non-required information.

BACKGROUND: County clerk records are on microfiche film. Concerns about identity theft are resulting in clerks receiving more requests for removal and redaction of public records, to preserve sensitive information. Updating the microfiche records is costly and difficult, if not impossible. Removal of information from old records also curtails citizens' ability to inspect previously public information. "The guiding principle in Oregon is to protect the public's right to inspect public records." *In Def. of Animals v. OHSU*, 199 Or App 160, 168 (2005).

HB 3119 would prohibit clerks from redacting information from already recorded documents, and from refusing to record an instrument because it has extraneous information. It would also immunize clerks from liability for recording instruments with extraneous information.