

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	5 - 0 - 0
Yeas:	Deckert, George L., Monnes Anderson, Starr, Metsger
Nays:	0
Exc.:	0
Prepared By:	Janet Adkins, Administrator
Meeting Dates:	5/21, 5/30

WHAT THE MEASURE DOES: Authorizes the creation of affordable housing covenants restricting price, rental rate or occupancy. Specifies that covenants are entered into on a voluntary basis by property owners in exchange for the benefits of a subsidy and that covenants are designed to help ensure adequate supplies of rental and owner-occupied affordable housing for low and moderate income households. Requires the covenant to be recorded in the deed, mortgage or other written instrument executed by the owner of real property. Provides that covenants may restrict use of real property for affordable housing as a condition for providing subsidies to low and moderate income individuals for the purpose of buying a home. States legislative declaration of serious shortage of affordable housing. Defines affordable housing covenant as a non-possessory interest in real property imposing limitations and obligations that encourage development and availability of low and moderate income housing.

ISSUES DISCUSSED:

- How Covenants work in the housing marketplace
- Transferability of covenants
- Challenges to covenants by property owners
- Need to ensure that dollars spent on covenants remain in the affordable housing market
- Termination of covenants

EFFECT OF COMMITTEE AMENDMENT: Adds provision terminating covenant if the holder of the covenant is a corporation that dissolves without conveying or assigning the covenant and no person is entitled to exercise a third-party right of enforcement. Makes corrections.

BACKGROUND: Currently, deed restrictions and affordability covenants occur in the marketplace. However, there is no comprehensive enabling statute for such affordability covenants in Oregon law. The lack of an enabling statute may put existing agreements in jeopardy should they be challenged in court. Lack of statutory language authorizing public funds intended to provide long-term affordable homeownership may limit options for low and moderate income homebuyers.

There is precedent for such enabling legislation in Oregon statutes as well as in other states. The Oregon Department of Housing and Community Services is authorized by a specific statute that establishes the validity of its affordable housing deed restrictions (ORS 456.625(15)). It provides (in part):

OHCS may execute and record written instruments that contain terms, including but not limited to restrictive covenants or equitable servitudes, pertaining to the use and enjoyment of housing projects. Notwithstanding any other provision of law, the executed instruments shall constitute and create restrictive covenants affecting and running with the property according to the terms of the instruments when recorded in the records of the county where the property is located.

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This summary has not been adopted or officially endorsed by action of the committee.