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OLTA CONCERNS WITH SB 56

The Oregon Land Title Association, a trade association of title companies, urges the Senate Rules Committee to oppose Senate Bill 56 due to the following concerns:

ADDITIONAL BURDENSOME WORKLOAD

For title companies, the bill will create another index for review in real estate transactions.

Currently title companies must review different records in the county where the real property is situated. These records include (among others) the county clerk's records, the circuit court money judgment records and various circuit court actions that may affect real property, such as probates, conservatorships and divorces. Because the proposed statewide lien register does not replace but **supplements** these existing filing repositories, it will add to title company work.

Furthermore, one problem that title companies encounter is **name similarity**. A warrant recorded in the County Clerk Lien Record against a person establishes notice of a lien upon the debtor's real property in that county. If a real property owner has a similar name but is not the debtor in question, the title company must obtain satisfactory evidence that the two persons are different. Requesting and reviewing this information takes time. A statewide lien register will generate more "similar name" occurrences, because names will not be screened by county.

The similar name problem will burden title companies in small counties disproportionately, because they will have to address similar names based on the state's overall population, rather than a single county's population. For many small counties, this will be something like a 100 fold increase in the pool of potentially similar names.

REDUNDANCIES AND CONFUSION OVER DUPLICATE LIENS

The proposal permits warrant filings in the statewide lien register, but does not prohibit recording in a county's County Clerk Lien Record. If double filing occurs, there will be confusion about whether the double filings create double liens. Title companies may be compelled to request payoffs for both filings, and, after payoff, they will have double duty to confirm that double satisfactions or releases are filed.

EXPANSION OF PERSONAL PROPERTY LIENS

The proposal establishes a lien on real and personal property. It bears noting that existing laws already specify how liens arise from state warrants. Not all warrants create liens on personal property, so SB 56 will expand the creation of personal property liens, a factor that could complicate personal property transactions.

Under current law, the effect of recording a warrant differs between warrants for unpaid income taxes and warrants for other unpaid obligations to the state. In general, for these other obligations, the recording of a warrant has the effect of creating a lien only on the real property of the taxpayer. Generally that lien is the equivalent of a judgment lien. (A judgment lien encumbers only real property.) Examples include warrants for unpaid fuel taxes, unpaid amusement device taxes, unpaid timber and forestland taxes, unpaid cigarette taxes, unpaid oil and gas taxes and various unpaid civil penalties.

The lien for unpaid state income taxes is much broader in two important ways. One is that it is a lien on real and personal property. The other is that it arises by reason of assessment, not from recording of a warrant. The recording of a warrant merely establishes the priority of the lien.

SB 56 expands the broad reach of the state income tax lien (under ORS 314.417, 314.421 and 314.423) to all state warrants. Thus all warrants under the present law that do not give rise to liens on personal property will gain that effect.

For these reasons, OLTA urges your opposition to SB 56. Thank you.