

**Testimony before Senate Judiciary Committee
on behalf of the Debtor-Creditor Section of the
Oregon State Bar**

March 9, 2015

The opposition statements concerning SB 462 in this letter are written on behalf of the Oregon State Bar's Debtor-Creditor Section. The section sought and received authority from the Oregon State Bar to oppose this measure. The Debtor-Creditor Section is comprised of practitioners across the state that focuses on debtor-creditor law.

The Debtor-Creditor Section opposes S.B. 462. ORS Chapter 79 is an important and technical statute, with significant interconnections between its roughly 125 sections.

The Oregon Legislature has already fully considered and rejected the proposal embodied in SB 462. In 2009-2010, the nationwide Uniform Law Commission fully approved two alternatives to addressing this issue following numerous meetings among secured lending experts. The American Bankers Association actively participated during those meetings. In 2012, the Oregon Law Commission supported Alternative B; both houses of the Oregon Legislature agreed (rejecting a proposed Alternative A amendment); and Governor Kitzhaber signed the bill. In both 2013 and 2014, the Bankers Association again unsuccessfully attempted to pass Alternative A, and there is no reason for a different result on this fourth attempt. Most recently, in September 2014, the Oregon Law Commission expressly reaffirmed its opposition to Alternative A and its support for current Oregon law.

The existing statute should remain as it is currently because:

- Alternative B avoids hyper-technicalities that could cause severe financial harm to low-volume or non-professional lenders;
- The proponents' concerns about searching under multiple names doesn't hold water because in Oregon searches under multiple possible names are cost-free and almost instantaneous;
- Even Alternative A would not significantly simplify searches, because of the continuing need to find federal tax lien filings and certain prior-law financing statements; and
- The Oregon DMV driver's license database is not accessible to all lenders, and among the states adopting Alternative A most do have public DMV databases.

These reasons outweigh the very small overhead savings that proponents might gain under Alternative A. Professional lenders can handle either alternative as enacted in a given state, which is one reason that the Uniform Law Commission approved the two alternatives in the first place. (The Uniform Law Commission approves alternatives for parts of statutes that present no practical need for all 50 states to have quite the same provisions.) Indeed, for several decades up until 2001, the secured lending system worked fine with each state having one of *three* Alternatives on where to filing a financing statement (see former ORS 79.4010).

As lawyers actively practicing in this area of the law, and on behalf of the Oregon State Bar's Debtor-Creditor Section, we urge you to oppose SB 462.