



**Testimony Before the House Committee on Business & Labor
Respectfully Submitted by Shaun E. Jillions
April 15, 2015**

Chair Holvey and Members of the Committee:

RE: Support for HB 3488

The Oregon Association of REALTORS® (OAR) is a nonprofit trade association that represents over 14,500 REALTORS® statewide. OAR thanks you for this opportunity to present testimony in support of HB 3488.

HB 3488 further addresses a troubling development in real property law that allows for private parties to impose real estate transfer fees on the sale of real property. At its most basic elements, the imposition of a private transfer fee allows a third party to collect a fee upon every purchase of a particular property, calculated as a percentage of the sale price, far into the future. The Oregon Legislative Assembly unanimously approved prohibiting private transfer fees in 2009 (HB 2481) with very limited exceptions.

A typical imposition of a private transfer fee occurs in the following scenario: A property owner adds a covenant to the deed of their home prior to the sale of the property. This covenant attaches to that particular sale of the property, ***in addition to all future sales*** of the property, often for as long as ninety-nine years. The covenant requires future buyers of the property, for as long as the covenant is in effect, to pay a certain percentage of the sale price as a transfer fee back to the original property owner.

In order to administer and enforce the covenant, there is typically a third party involved who takes a percentage of the fee collected on all subsequent transfers. Despite the fact that the third party never maintained any form of ownership interest in the property, they typically receive upwards of 50% of the proceeds from the transfer fee for ***all*** sales of the property to consumers who were never aware that such a restriction was present.

HB 3488 further protects consumers from the imposition of private transfer fees that also pose a significant hindrance to buyers seeking clear title to property, and place a substantial barrier to potential buyers in seeking financing. On March 16, 2012, the Federal Housing Finance Agency (FHFA) issued a final rule (codified at 12 C.F.R. Part 1228) and a directive which prohibits Fannie Mae from purchasing or investing in any mortgages on properties encumbered by certain private transfer fee covenants, securities backed by such mortgages, or securities backed by the income stream from such covenants, unless they are excepted transfer fee covenants, as defined in the final rule.

In its March 15, 2012 News Release, FHFA stated, "The final rule excludes private transfer fees paid to homeowner associations, condominiums, cooperatives, and certain tax-exempt organizations that use private transfer fee proceeds to benefit the property. Fees that do not directly benefit the property are subject to the rule, and would disqualify mortgages on the property from being sold to Fannie Mae or Freddie Mac, or used as collateral for Federal Home Loan Bank advances.

HB 3488 brings Oregon Revised Statutes in line with the FHFA rules, while ensuring that legitimate affordable housing fees are still lawful.

In conclusion, the Oregon Association of REALTORS® believes that HB 3488 is a common sense and consumer friendly bill. We respectfully request that you favorably consider it and ultimately move it to the floor with a "do pass" recommendation. Thank you for this opportunity to present testimony.