

# LANE COUNTY OFFICE OF LEGAL COUNSEL

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April 4, 2017

Oregon State Senator Lee Beyer  
Chair, Senate Business and Transportation Committee  
Oregon State Capitol, Hearing Room B  
Salem, Oregon 97401

Re: Senate Bill (SB) 968, Proposed MERS legislation

Dear Chair Beyer and Committee Members:

My name is Stephen Dingle and I am the Lane County Counsel and the immediate past president of the Oregon County Counsel Association (OCCA). I appear today and submit this testimony on behalf of Lane County and the OCCA in opposition to SB 968.

Historically one of the fundamental roles of county government in the United States is the tracking and protection of real property ownership. This function continues to be of paramount importance at the local level and the development of MERS sidesteps and impedes that role in significant ways.

Our opposition to SB 968 includes, but is not limited to, the following:

- SB 968 would legitimize the bad and unfair practices of the MERS that contributed to the housing/foreclosure crisis. The bill would allow a nominee/agent of the note holder act as beneficiary, reversing the Oregon Supreme Court's holding in *In re Brandrup*, 353 Or. 668 (2013).
- SB 968 unfairly terminates litigation several Oregon counties have initiated to seek compensation for damages MERS has caused to their indexes which track property ownership.
- SB 968 retroactively cures legal defects in existing foreclosure actions caused by MERS and the *Brandrup* decision.
- SB 968 has contributed to the rise of "zombie" properties that cause health and safety risks and the associated costs for Oregonians and local governments.

My focus is on the last issue, so-called "zombie" properties. A zombie property is a home where the original owner has been evicted and the foreclosure process is either underway but not completed or has never been initiated. The abandoned properties become magnets for squatters that damage the property and engage in criminal activity exposing neighboring property owners to the resulting reduced property values and the all of the other dangers that go along with that type of activity. In some cases the extended lack of maintenance has put adjacent homes in danger of damage or destruction by fire.



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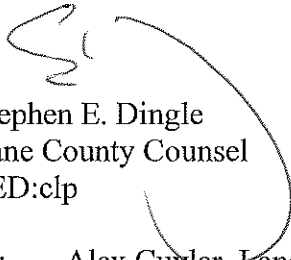
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MERS contributes to this problem in two ways. First, the private system MERS has created for the tracking of ownership makes it difficult, and in some cases impossible to identify the responsible party with authority over the property. Second, MERS promotes a type of ownership that does not lend itself to the traditional standard of care lenders apply to their properties.

I urge no further action on SB 968.

LANE COUNTY OFFICE OF LEGAL COUNSEL

Respectfully Submitted,



Stephen E. Dingle  
Lane County Counsel  
SED:clp

cc: Alex Cuyler, Lane County Intergovernmental Relations Manager  
Lane County Legislative Committee  
Rob Bovett, Association of Oregon Counties  
Alan Rappleyea, Washington County Counsel and President OCCA  
Stephen Madkour, Clackamas County Counsel  
Joel Benton, Jackson County Counsel