



April 5, 2017

Clackamas County Board of Commissioners
Policy Position
SB 968: Relating to the Mortgage Electronic Registration System

Clackamas County opposes SB 968: The Board of County Commissioners opposes efforts to amend the Oregon Trust Deed Act and revise the definition of “beneficiary” for the purposes of trust deeds and cure deficiencies regarding the Mortgage Electronic Registration System (MERS).

Clackamas County, along with other counties and the state of Oregon, receive document recording fees as required by state statute. The MERS recording system intentionally deprives local and state agencies from receiving these statutorily authorized recording fees. SB 968 would allow MERS to act as a beneficiary, and consequently reduce the amount of document recording fees that are sent to counties. Not only would the County be deprived of filing fees for its recording services in the coming years if SB 968 were to pass, the retroactive nature of the bill would ensure that expected revenue would also be lost. Essentially, SB 968 would overrule the Oregon Supreme Court opinion in *Brandrup v. Reconstruct Company*, holding that MERS does not have the right to receive payment on the note secured by the trust deed and that MERS cannot hold legal title to those trust deeds or transfer to other entities.

Moreover, tracking ownership of titles and deeds is muddied through MERS, making it difficult and sometimes impossible to identify the responsible party with authority over the deed. The MERS recording system allowing for the unrecorded transfer of deeds between MERS beneficiaries corrupted the public record by not specifically identifying interest holders within the statutory grantor/grantee indexes.

Passage of SB 968 would legitimize one of the bad and unfair practices that contributed to the housing foreclosure crisis and would not fit with the ethic of the United States government, which has historically attempted to track and protect real property ownership.

We urge a “no” vote for SB 968.

Please contact Chris Lyons at clyons@clackamas.us for more information.