

2018 Legislative Session
AGENCY FISCAL IMPACT STATEMENT FORM
(See instructions for completing form)

Please complete this form, and email completed form to the Legislative Fiscal Office (LFO) and the Budget Planning and Management Division (BAM).

Agency Name: Association of Oregon Counties (OAC) and Oregon Association of County Clerks (OACC)
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Preparer Phone #: 541-270-7414
Date Submitted: Tuesday, February 27, 2018

Measure #: SB 1556 Dash-9 Version: _____

<input type="checkbox"/> No fiscal impact	The absence of an expenditure or revenue (non-tax) impact.
<input type="checkbox"/> Minimal Impact	A fiscal impact that can be absorbed with existing agency resources.
<input checked="" type="checkbox"/> Fiscal Impact	A fiscal impact determined to be greater than a minimal fiscal impact.

BILL DESCRIPTION

State your agency's understanding of what the bill proposes. For FIS prepared on subsequent bill versions (amendments), please provide an explanation of the changes made in each version of the measure.

The base bill would theoretically terminate pending litigation brought by 12 Oregon counties against the [Mortgage Electronic Registration System \(MERS\)](#) and the banks that have recorded trust deeds that represent MERS as the beneficiary or other party to trust deeds. The Oregon Supreme Court has [determined](#) that MERS is not the beneficiary of those trust deeds, thus indexing them as such is an unlawful fraud and damages the public record.

A prior lawsuit brought by Multnomah County for the same cause of action settled and resulted in:

1. Multnomah County no longer having to index MERS; and
2. The payment of \$9,573,500 to Multnomah County in damages (\$9,000,000 of which was paid by MERS).

The Dash-9 amendments would allow the current litigation by those 12 Oregon counties to proceed, but would theoretically prohibit any subsequent litigation by other counties. Thus, the situation would theoretically be locked down as follows:

1. Multnomah County would have their MERS remedy.
2. Twelve Oregon counties would retain a possible path to a MERS remedy.
3. Twenty-three Oregon counties would be precluded from any MERS remedy.

The fiscal impact due to ongoing damage to the public record in 23 Oregon counties cannot be estimated in the narrow time given for this FIS. However, it would be substantial. Further, 23 Oregon counties would theoretically be left without any legal remedy to no longer have to index MERS, so there would be further ongoing damages to the public records of those counties (see attached map).

In addition, by precluding any future lawsuit for a similar fraud and violation of Oregon law, the legislation would functionally permit any future shell company to operate just like MERS in violation of Oregon law. MERS has damaged the public record in violation of Oregon law, and continues to do so, and the Dash-9s would grant companies like it functional immunity, thus further damaging the public record without any remedy.