



## ALEX CUYLER

---

Intergovernmental Relations Manager  
Alex.Cuyler@co.lane.or.us

DATE: February 27, 2018  
TO: Senate Committee on Rules  
RE: SB 1556, relating to trust deeds

Dear Chairwoman Burdick and members of the Committee:

The Lane County Board of Commissioners is adamantly opposed to SB 1556 as introduced, and cannot support the -9 amendment as written. The only real solution to the issue of how to protect the accuracy of property transaction recordation is for the Committee to adopt the -8 amendment.

Here is why we are opposed to the base bill and the -9 amendment:

- This measure usurps separation of powers and remedy provisions afforded by the Oregon Constitution. It clearly targets an existent lawsuit filed in the Multnomah Circuit Court that 10 Oregon Counties have brought against Mortgage Electronic Registration Systems, Inc. The lawsuit seeks a remedy to damages the MERS system has caused to county records that are statutorily directed to accurately identify any party asserting a lien on real property. This lawsuit is not unique to Oregon. This system has wreaked havoc across the United States.
- In addition to MERS, which is a membership organization including mortgage banks, title companies, and title insurance companies, this measure would preclude Oregon's counties from bringing suit against ANY organization that seeks to similarly by-pass the county recording function. The -9 would prohibit a similar lawsuit in the event some other corporation gets into this business, which is not unrealistic, given the Legislature's continual practice of raising recording fees charged at County offices.
- While no individual is required to record a mortgage in Oregon, it is the **ONLY** record that provides that individual with a **perfected** mortgage. In a mortgage loan transaction, perfecting a lien establishes a lender's priority against other creditors and gives it the right to foreclose if the borrower defaults on re-payments. Perfecting a mortgage ensures a host of rights to both the borrower and the owner of the loan. Absent a recording of a deed of trust with the County, the security instrument is unperfected in the hands of the transferee. This becomes particularly problematic in foreclosure actions.
- Every evening, our County Clerk transmits the updated Index to the County Assessor such that his office can accurately ensure property tax collection for each of the 83 taxing districts in Lane County. A corruption of our Index, and the presence of an unregulated private side recording system, which may also be at risk of corruption could well wreak havoc for the revenues these districts depend upon. Should these districts also be prevented from bringing suit in the event they are damaged?

At the very least, the -9 amendment should be prohibited from being introduced as evidence in any pending litigation.

SUBMITTED ELECTRONICALLY BY ALEX CUYLER