

**Testimony before the House Judiciary Committee
In support of HB 2459
On behalf of the
Oregon State Bar Debtor-Creditor Section
February 12, 2019**

Chair Williamson and Members of the Committee:

My name is Erich Paetsch and I am an attorney with Saalfeld Griggs PC in Salem. I am here as a representative of the Oregon State Bar's Debtor-Creditor section in support of House Bill (HB) 2459.

The Debtor-Creditor section of the Oregon State Bar was originally formed in 1978, and today is made up of over 500 attorneys who practice throughout Oregon. Members of the section represent both debtors and creditors. Our members represent clients from eastern Oregon to Hood River, to the Portland metro area and out to the coast. The Debtor-Creditor section's executive committee has 15 members with a wealth of experience throughout the state.

The Executive Committee of the Oregon State Bar's Debtor-Creditor section support HB 2459 and we urge the passage of this bill.

With the advent of various privacy laws, lenders, servicers, and other lien holders are reluctant to provide payoff information to anyone other than the named borrower or customer who holds one of various interests in the land affected by a mortgage, trust deed, or other lien. Restrictions on disclosure of such information under such privacy laws generally do not apply in a situation where disclosure is mandated by other law. For example, under the Graham-Leach-Bliley rules, 15 USC § 6801 *et seq.*, disclosure of nonpublic personal information is permitted to comply with Federal, State, or local laws or to comply with judicial process. Similarly, under the Fair Debt Collection Practices Act, 15 USC § 1692c permits disclosure of information with the express permission of a court.

Numerous situations exist in which a person who is not the customer of the lender or other lien holder has a valid reason to obtain payoff information. Examples include joint owners, successors-in-interest to an owner, persons who hold a lien interest in the property which is junior to that of the lien of the lender or other lien holder, and escrow agents performing duties in a real estate transaction, to name a few. Personal representatives of deceased persons frequently have great difficulty obtaining information necessary to satisfy a mortgage or other lien.

HB 2459 establishes a statutory provision under which a person who is an “authorized recipient” may send a request in a statutory form to the person or entity that holds an encumbrance against real property for a “lien information statement” to obtain pertinent payoff information. HB 2459 outlines the process for both authorized recipient and encumbrance holders to request and respond to requests. Requests for lien information statements may only be requested once a year with two limited exceptions. In addition, HB 2459 ensures judicial oversight of the process and provides clear remedies if either party misuses the process. Further, HB 2459 allows, but does not require, an encumbrance holder to charge no more than fifteen dollars as a processing fee. These limitations will help to ensure that necessary information is available to Oregonians while still appropriately protecting financial data and meeting privacy requirements.

On behalf of the Oregon State Bar’s Debtor-Creditor Section, I thank the committee for its consideration and urge the passage of HB 2459. I am happy to answer any questions.