



To: Members of the Senate Judiciary Committee

From: Brian Wallace, Chief Civil Deputy, Marion County Sheriff's Office
Oregon State Sheriffs' Association
Oregon Association Chiefs of Police

Date: March 26, 2019

Re: SB 11 – Testimony in Support

Chair Prozanski and Members of the Committee,

For the record, my name is Brian Wallace and I am the Chief Civil Deputy for the Marion County Sheriff's Office. I'm here today testifying in support of Senate Bill 11 on behalf of the Oregon State Sheriffs' Association and Oregon Association Chiefs of Police.

The Oregon State Sheriff's Association has worked collaboratively with the Oregon Department of Justice to draft legislation pertaining to individuals and companies who are aggressively persuading homeowners to sell their property/redemption rights in judicial foreclosure actions.

Background:

The sheriff is mandated to serve and execute process and orders of the courts. Part of that responsibility is processing a foreclosure 'writ of execution', by levying and selling a debtors interest in their property. The Sheriff has always performed this function, but because of the foreclosure crisis in 2008, sheriffs saw a dramatic increase in these duties in 2013 after the Oregon Supreme Court ruled that Mortgage Electronic Registration Systems (MERS) was not properly following the Oregon Trust Deed Act. This forced lenders to file foreclosure actions in circuit court, rather than privately conducting sales.

Issue:

A homeowners lack of knowledge or understanding of their redemption rights (ability to buy back their property within 180 days of a sheriff sale), is causing some homeowners to sign off on selling more than what they know they are entitled to. Homeowners are often promised by companies that they will get \$10,000 for selling those rights, but only if the company is the successful bidder at the sheriff sale. More often than not, companies have no intention of bidding at the sheriff sale, or a shell company is the successful bidder, so the homeowner receives, on average, \$250 to \$500 for selling their rights. Companies then redeem the property from the purchaser within 180 days. These same companies may also obtain excess funds which would be due to the homeowner after the foreclosure sale, if the debt owed is less than what the property was sold for. But because the homeowner sold all of their rights, they do not

receive any excess funds from the sale – funds that could help a homeowner find a new place to live or assist in keeping them in their home.

Solution:

The Oregon State Sheriff’s Civil Command Council and Oregon Department of Justice worked methodically to come up with homeowner protection legislation by adding “seller beware” language in three different steps of the foreclosure process: 1. At the time of filing the foreclosure complaint with the court, 2. At the time the sheriff provides notice of the sale, and 3. At any time a homeowner is offered money to sell their rights in the property, by having that “buyer beware” language in the conveyance (deed).

We urge you to support Senate Bill 11 and to move this bill out of committee with a “do pass” recommendation.