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Testimony in Support of HB 2009A-12
Before the Senate Committee on Housing and Development
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Chair Jama, Vice-Chair Linthicum, and members of the Committee,

On behalf of the Oregon Law Center (OLC), thank you for the opportunity to submit testimony in support of House Bill 2009A with the Dash 12 amendments. This bill would re-establish a temporary residential foreclosure moratorium and ensure basic protections for homeowners facing foreclosure.

The Oregon Law Center's mission is to achieve access to justice for low-income communities of Oregon by providing a full range of the highest quality civil legal services. The vast majority of our clients have incomes at or below the federal poverty level, and work hard to provide the basic necessities for themselves and their family. During the Great Recession, our offices across the state saw a marked increase in the number of people eligible for our services. Swept up by the force of failing markets worldwide, homeowners suddenly found themselves faced with impending poverty. At the time, we worked hard to respond to this crisis, and were so grateful for the establishment of the Foreclosure Avoidance Mediation Program and the network of housing counseling providers established at that time. Those programs saved many homes, prevented much credit damage, and helped Oregonians weather the crisis.

The COVID pandemic struck with intensity and has caused many of the same crises for housing stability that we saw during the Great Recession. We know that, like eviction impacts renters, foreclosure can position homeowners between shelter and homelessness.¹ Many Oregonians have begun to recover from the initial extreme losses of the pandemic, but many are still in the throes of job loss, illness, quarantine requirements, and other crises. In 2020, those who have fallen behind at least three months on their mortgage increased 250%, to over 2 million households. Nationally, we are now at a level not seen since the height of the Great Recession in 2010.² Oregon is not immune to this impact, and this is happening at a time when funding for housing counselors has been reduced and the foreclosure mediation program is less available.

¹ *Foreclosure to Homelessness 2009*. A joint report from the National Coalition for the Homeless, the National Health Care for the Homeless Council, the National Alliance to End Homelessness, the National Association for the Education of Homeless Children and Youth, the National Law Center on Homelessness & Poverty, the National Low Income Housing Coalition and the National Policy and Advocacy Council on Homelessness.

² https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf

We know that due to structural inequities and systemic racism, Oregon’s housing markets, supply, affordability, and opportunity have been vastly out of reach for low-income communities and for communities of color.³ We also know that the impact of the pandemic is falling disproportionately on those very same communities. If we do not act to ensure structural supports and systemic protections for struggling homeowners, these inequities will be deeply exacerbated.

HB 2009A is a necessary step to help ensure that struggling homeowners do not suffer generational devastating impact as a result of this pandemic. The bill would accomplish several critical elements of ensuring that our neighbors stay safe and stable through this crisis:

- Pausing foreclosure proceedings temporarily for qualifying borrowers;
- Temporarily delaying payment requirements (continuing the obligation to pay);
- Ensuring that the purpose of the Foreclosure Avoidance Mediation Program is met, by lowering the exemption threshold.

The A-Engrossed bill reflects amendments made to address input from stakeholders, ensuring that the bill will work smoothly with the provisions of the federal moratorium. The amendments also exempted vacant or abandoned property, and required a borrower attestation of loss of income due to COVID. The Dash 12 amendment makes several technical changes:

- Clarifies language on what protections homeowners have access to and what lenders are required to do (temporary pause on foreclosures, and offer of forbearance);
- Adds trustees to safe harbor provisions for lenders included in the bill;
- Clarifies language that must be included in a notice to borrowers of their protections under the bill;
- Specifies that forfeitures under land sale contracts are included in the exceptions for proceedings that concluded or recorded prior to June 30, 2020.

One of OLC’s greatest concerns is making sure that struggling Oregonians do not end up losing their homes because of the pandemic, and that they can rely on the existence of a fair and reliable process by which they can assess their options and determine next steps. As we enter the post-COVID world, HB 2009A’s protections will ensure that borrowers have time to get caught up and back on their feet. These same principles are why the federal Government has paused many foreclosure proceedings until June 30th, 2021.⁴ However, the federal action leaves roughly a third of mortgages without protection, and we know that our economy will not be back on its feet by the end of June.

Passage of HB 2009A will ensure that all borrowers have stability through what we hope is the close of the pandemic. Roughly \$90 million in federal homeowner assistance funds are expected to flo into the state in the coming months. It is imperative to ensure that homeowners don’t risk foreclosure while relief is just around the corner.

³ https://www.oregonlegislature.gov/citizen_engagement/Reports/2019-JARDHO-Addressing%20Barriers%20to%20Home%20Ownership%20for%20People%20of%20Color%20in%20Oregon.pdf

⁴ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/16/fact-sheet-biden-administration-announces-extension-of-covid-19-forbearance-and-foreclosure-protections-for-homeowners/#:~:text=The%20actions%20announced%20today%20will,homeowners%20through%20June%2030%2C%202021%3B&text=Provide%20up%20to%20six%20months,or%20before%20June%2030%2C%202020.>

The change to the exemption level for purposes of the foreclosure mediation program is necessary to ensure that the circumstances of the pandemic do not undermine the purpose of the program. The mediation program was established to ensure that borrowers facing foreclosure had assistance and time to navigate the confusing foreclosure process and the attendant paperwork and complexity. The goal of the program is, where possible and appropriate for both sides, to examine options and to avoid unnecessary foreclosures. Where losing the home is inevitable, the program helps to provide families with sufficient reliable notice that they can plan for transition to avoid crisis and chaos.

The current exemption for creditors that filed fewer than 175 foreclosures in the previous calendar year was to exempt smaller lenders from the program. However, due to court closures, emergency orders, and the COVID crisis, most entities have filed fewer cases and will now qualify for the exemption. The bill proposes the reduction of the exemption number to take into account the artificially low filing numbers. Passage of the bill will ensure that more borrowers facing foreclosure in the future will receive the intended benefits of the program. This program has been incredibly successful, and has helped 70% of participants reach negotiated agreements with their lenders.

Passage of HB 2009A with the Dash 12 amendments would provide significant protections for vulnerable homeowners, thereby preserving safety and stability for families during this pandemic.

Thank you for this opportunity to submit testimony, and for your work on behalf of Oregonians.