

## HB 3294 -2, -3 STAFF MEASURE SUMMARY

### House Committee On Judiciary

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**Prepared By:** Amie Fender-Sosa, LPRO Analyst

**Meeting Dates:** 3/9, 4/3

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#### WHAT THE MEASURE DOES:

Modifies the form and details of court orders that invalidate illegal discriminatory provisions in title instruments. Requires that court, after process that is already codified, include a certified copy of each instrument, upon which the court has physically redacted the violating provisions. Allows a person to provide to a county clerk, for recording, a certified judgment correcting a title instrument that includes illegal discriminatory provisions. Requires the person submitting the request for the change to include specific case and record location information on the first page of the submission. Directs county clerk who receives the certified copy of the judgment and the required fees to record the redacted instrument, but not the judgment, and update the related records, removing the original instrument from the records. Directs the clerk to either store the original or transfer to the State Archivist to be preserved. Allows the State Archivist or Chief Information Officer to adopt related rules. Clarifies that service is considered complete on the date the notice and copy of the petition are sent to the owner/s via registered or certified mail. Directs the Oregon Judicial Department to create a model template for the petition, notice and judgments described above. Allows through January 1, 2026, for conforming supplemental judgments on judgments entered into before the effective date of the act. Updates language.

#### ISSUES DISCUSSED:

##### EFFECT OF AMENDMENT:

-2 Replaces the measure. Modifies the form and details of court orders that invalidate illegal discriminatory provisions in title instruments. Allows the owner of the property or any portion of the property subject to the provision to cause the illegal provision to be stricken from the public records, by filing a petition in the circuit court where the property is located. Requires the petition to be filed as an in rem declaratory action whose title contains the property address; specifies content of petition. If the court finds any of the provisions of the recorded instrument contain void and illegal discriminatory provisions, directs the court to enter an order striking the void provisions from the title. Directs the county clerk to record the order and certified copy of the document where the court has physically redacted the illegal provisions; update the index of each original document; and maintain the original document or an image separately from public access for archival purposes. Directs the Judicial Department to create a template for the petition, notice and order by January 1, 2025. Allows for the court to conform prior orders to this measure, on motion of a petitioner, until January 2, 2026.

-3 Replaces the measure. Modifies the form and details of court orders that invalidate illegal discriminatory provisions in title instruments. Allows the owner of the property or any portion of the property subject to the provision to cause the illegal provision to be stricken from the public records, by filing a petition in the circuit court where the property is located. Requires the petition to be filed as an in rem declaratory action whose title contains the property address, *except that if the real property consists of multiple lots or parcel subject to a declaration, the title of the petition may be the name of the subdivision and the recording number of the declaration*; specifies content of petition. If the court finds any of the provisions of the recorded instrument contain void and illegal discriminatory provisions, directs the court to enter an order striking the void provisions from the title. Directs the county clerk to record the order and certified copy of the document where the court has physically redacted the illegal provisions; update the index of each original document; and maintain the original document or an image separately from public access for archival purposes. Directs the Judicial

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Department to create a template for the petition, notice and order by January 1, 2025. Allows for the court to conform prior orders to this measure, on motion of a petitioner, until January 2, 2026.

### **BACKGROUND:**

ORS 93.274 provides the procedure for removal of illegal discriminatory restrictions for real property records (restricting the use of real property by any person or group of persons by reason of race, color, religion, sex, sexual orientation, gender identity, national origin or disability). If that process is successful, it concludes with the court entering a judgment removing only that part of the provision that is in violation.

House Bill 3294 directs the county clerk to replace a recorded instrument for real property with a court-ordered version that has illegal discriminatory language redacted.