

HB 3294 A STAFF MEASURE SUMMARY

Carrier: Rep. Nguyen D

House Committee On Judiciary**Action Date:** 04/04/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 10-0-0-0**Yeas:** 10 - Andersen, Bynum, Chaichi, Conrad, Kropf, Lewis, Morgan, Reynolds, Tran, Wallan**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Amie Fender-Sosa, LPRO Analyst**Meeting Dates:** 3/9, 4/4**WHAT THE MEASURE DOES:**

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 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.

ISSUES DISCUSSED:

- Property-owner initiated
- Process preserves historical records
- Recognizing history of institutional racism and acknowledging the racial hatred perpetuated in property documents
- Funding concerns for county clerks
- Prior legislation intended to allow homeowners to remove racist language, but there is currently no way to actually remove the language because documents can only be added to the real property file

EFFECT OF AMENDMENT:

Replaces the measure.

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 A directs the county clerk to replace a recorded instrument for real property with a court-ordered version that has illegal discriminatory language redacted; provides for retention of original documents for archival purposes.