

HB 3294 A STAFF MEASURE SUMMARY**Carrier:** Sen. Manning Jr**Senate Committee On Judiciary**

Action Date: 05/08/23
Action: Do pass the A-Eng bill.
Vote: 3-0-0-2
Yeas: 3 - Gelser Blouin, Manning Jr, Prozanski
Abs: 2 - Linthicum, Thatcher
Fiscal: Has minimal fiscal impact
Revenue: Has minimal revenue impact
Prepared By: Amie Fender-Sosa, LPRO Analyst
Meeting Dates: 5/1, 5/8

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:

- The Legislative Assembly attempted to solve this issue before, but there is no process under Oregon law that actually removes illegal language from a property record
- Current (limited) judgment process requires a filing fee be paid
- Home purchasers concerned about affixing their names to documents of racial hatred
- Measure allows for an active file and an archival file for historical purposes
- Washington state has a similar law

EFFECT OF AMENDMENT:

No amendment.

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; that judgment is added to the property file, but the discriminatory language itself is not removed.

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.