

**Written Testimony of Rob Bovett, AOC Legal Counsel,
before the House Human Services and Housing Committee
regarding House Bill 3357**

Tuesday, March 21, 2017

Chair Keny-Guyer, Vice-Chairs Olson and Sanchez, and Members of the Committee,

Thank you for the opportunity to offer this testimony regarding House Bill 3357.

The Association of Oregon Counties (AOC) generally supports legislation that expands affordable housing in Oregon, which has reached crisis proportions throughout our state.

However, AOC is only supportive of this bill to increase the affordable housing recording fee if it is amended to repeal ORS 205.320(2)(e), which exempts this fee from the usual 5% administrative fee retained by counties. Otherwise, AOC opposes the bill as a continuing unfunded mandate since 2009 and, if passed without repeal of ORS 205.320(2)(e), the AOC Legislative Committee has recommended that AOC authorize me to file a declaratory judgment action seeking a court judgment that the entire fee constitutes an unfunded mandate in violation of Article XI, Section 15, of the Oregon Constitution, and declaring that counties no longer need to collect the fee.

Let me provide some brief background: When the affordable housing recording fee was first enacted in 2009, the legislation prohibited counties from retaining the usual 5% administrative fee that is used to help support the vital real property recording system in Oregon. This happened over the objections of AOC and the County Clerks and in my opinion constituted, and continues to constitute, an unconstitutional unfunded mandate in violation of Article XI, Section 15, of the Oregon Constitution. That should be corrected.

At a minimum, even if this Committee chooses to not increase the affordable housing recording fee, House Bill 3357 should be amended to repeal ORS 205.320(2)(e), and end the ongoing unconstitutional unfunded mandate on counties that has existed since 2009.

Sincerely,



Rob Bovett
Legal Counsel
Association of Oregon Counties (AOC)