

Testimony in Support of SB 98
On behalf of the OSB Consumer Law Section

February 15, 2017

CHAIR BEYER AND MEMBERS OF THE COMMITTEE:

My name is Kelly Harpster. I am an attorney in Lake Oswego, and I spend most of my time on mortgage and real estate litigation and advising the service provider for the States' foreclosure mediation program. I am here today as Chair of the Oregon State Bar's Consumer Law Section. The Consumer Law Section is made up of about 200 attorneys who represent clients on a wide range of consumer issues, including issues relating to mortgages. I also personally served on the DCBS workgroup that reviewed and commented on drafts of SB 98.

Today I want to express the Consumer Law Section's support for SB 98.

The National Mortgage Settlement in 2012 brought public attention to widespread problems in the mortgage servicing industry. Five years later, the problems continue. The volume of mortgage complaints received by the Consumer Financial Protection Bureau (CFPB) is second only to debt collection complaints. Key problems highlighted by the agency include "sloppy account transfers," "poor payment processing," and "loss mitigation mistakes." The CFPB has found that many nonbank servicers still lack robust compliance management systems to avoid these errors. As a result, consumers suffer credit damage, are forced to pay unlawful fees and charges, and in the worst cases are at put at risk of losing their homes.

Between 25 and 30% of mortgage loans are serviced by nonbanks, and today half of the 20 largest servicers in the United States are nonbank servicers. These entities are more lightly supervised and regulated than the banks that service loans, and they are not required to meet the same capital and liquidity requirements. A 2016 GAO report found that the CFPB does not have even a complete list of all nonbank servicers who may be subject to agency oversight. The report also noted that the Federal Housing Finance Agency (FHFA), which oversees Fannie Mae and Freddie Mac, lacks the statutory authority to examine nonbank servicers and to effectively monitor their operations. States have been filling the supervisory void, but Oregon remains one of the minority of states that does not regulate the activities of mortgage loan servicers.

With SB 98, Oregon joins the majority of states that require some oversight and accountability for large nonbank mortgage servicers. The bill helps ensure that servicers will be responsive to complaints by Oregon consumers, will provide basic account information when requested, and that they will refrain from defrauding or deceiving Oregon consumers. SB 98 also ensures that the State will be able to participate in multistate mortgage examinations, which helps promote regulatory consistency across state lines.

For all of these reasons, the Consumer Law Section strongly supports and urges a 'yes' vote on SB 98.