



RE: HB 2952 Relating to documents.

February 18, 2025

Chair Bowman, Vice-Chair Drazan, Vice-Chair Pham, and Members of the House Committee on Rules,

The Oregon Land Title Association (OLTA) is the professional association for the title insurance industry in Oregon, and membership includes title insurance underwriters and underwritten agent companies, many of which are locally owned throughout the State. OLTA promotes the educational, ethical, professional and legislative interests of the title industry. OLTA works with regulators, legislators, county clerks, and the public to ensure the title industry is responsive to evolving customer needs.

Paragraph 2, Section 4, of House Bill 2952 provides that:

“A county clerk may refuse to accept a document that has any characteristic suggesting it may be fraudulent.”

OLTA supports this policy goal. OLTA’s members consider themselves stewards of the public records.

However, our members already take many steps to ensure fraudulent documents are not submitted when insuring an owner or lender in a property transaction. **OLTA opposes the Bill as introduced** or at least **seeks an exemption** from the above paragraph 2 for deeds, mortgages, and deeds of trust that are recorded by a title company when the company also issues an owner’s policy or loan policy of title insurance based on the recorded deed or mortgage. (Such deeds and mortgages bear a company order number in the left-hand margin, making it plain to recorders they are submitted as part of an insured order.)

The insurance forms issued by title insurers in Oregon, available [here](#), cover against the risk of fraud in an insured real estate transaction. For example, the Owner’s Policy of title insurance provides coverage against actual loss incurred by the Insured as a result of:

2. Any defect in or lien or encumbrance on the Title.

[This] Covered Risk 2 includes, but is not limited to, insurance against loss from:

- a. a defect in the Title caused by:
 - i. forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;

The Loan Policy contains similar language.

OLTA member agents and insurers have a significant interest in combatting fraud because title insurers are financially liable if a fraudulent deed or mortgage is recorded as part of an insured order (subject to the terms and conditions of the policy).

Because of the many steps we take in any insured transaction to confirm the seller’s identity and other bona fides, completed seller or borrower frauds in insured orders are thankfully rare. And the insurance policy indemnifies against actual loss suffered by an Insured caused by such fraud.

By way of distinction, “accommodation” recordings submitted by title companies are not simultaneously issued with a policy of insurance. Documents submitted as accommodation recordings are not examined by the title company nor accompanied by policies of title insurance. Accommodation recordings bear a stamp in the margins “recorded as accommodation only” or “acco”. OLTA does not seek an exemption for accommodation recordings.

Another important concern around HB 2952 is the time and expense involved of unwinding an almost complete transaction if a clerk refuses to accept a deed or deed of trust due to suspected fraud. At the time documents are sent for recording, all transaction documents have been signed and all buyer and loan funds are being held in escrow pending recording. If a document is rejected, the closing cannot occur, and the transaction must be effectively unwound. For example, the loan funds must be returned to the lender and the lender may cancel the loan, thereby costing the borrower application fees, appraisal costs, flood certifications, etc. and maybe a rate lock.

Another relevant concern is that failure to timely record a deed may violate the parties' own contractual deadline to close the sale contained in their purchase contract. This would place the seller in breach due to no fault of the seller.

Senate Bill 391, another Bill pending in this 2025 Legislative Session, convenes a Work Group for addressing real property title fraud to report back to the Legislature with recommendations.

This year's Legislature should not enact the above provision of HB 2952 altering the recording law until the Work Group's recommendations can be heard, and the matter addressed comprehensively with input from all stakeholders, or else OLTA members should be exempted from the Bill's operation in connection with insured transactions.

Thank you for your consideration of this input from OLTA.

Submitted by

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