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**Testimony in Opposition to House Bill 2951  
House Committee on Rules  
February 19, 2025**

Chair Bowman, Vice Chair Drazan, Vice Chair Pham and members of the House Committee on Rules, my name is Kevin Christiansen and I am the government affairs director for the Oregon Bankers Association (“OBA”) and Community Banks of Oregon (“CBO”). Our organizations represent the diverse FDIC insured banks and trust companies doing business in Oregon. The banking industry employs over 20,000 Oregonians at approximately 800 locations throughout our state. Thank you for the opportunity to provide testimony about concerns we have with House Bill 2951.

As an initial matter, preventing fraud is of primary importance to the banking industry. Like the bill sponsors, we share the concerns about the increased incidence of deed fraud across the country and in our state. Further, our bankers who serve as notaries take their responsibilities very seriously. While well-intentioned, we believe there are several provisions in House Bill 2951, and a related bill, House Bill 2952, that raise concerns. The following is a non-exhaustive list of those concerns identified by our bankers and legal counsel:

- Privacy Concerns. It is unclear in submitting the required data called for in the bill if the notary’s identifying information will be tied to the record. If so, it would be possible to delineate a customer and account relationship with a specific financial institution. Releasing the requested information could be a violation of 16 CFR Part 314 - Standards for Safeguarding Customer Information (Gramm Leach Bliley), as it would contain non-public, personal identifiable information.
- Non-Recorded, Notarized Documents. It is important to note that not every document that is notarized is recorded. The bill, however, does not limit the reporting requirement to just those documents that will be recorded and a matter of public record. Financial documents commonly notarized by banks, but not recorded include: loan agreements; affidavits of lost or stolen checks; unauthorized card or ACH transactions; account signature cards and opening documents, including Customer Identification Plan and Beneficial Ownership acknowledgements; power of attorney affidavits; affidavits for a Safe Deposit Box; indemnity agreements; and declarations of a lost bank check or lost check indemnity agreement. These are only a small selection of the kinds of documents that could be notarized, but not recorded. There are many circumstances and reasons in which a notarized but non-recorded document should not be subject to public disclosure, not the least of which is the parties desire to have the document remain private.

- Public Records Exempt from Disclosure. It is unclear how the proposed database would interface with ORS 192.355, which requires redaction of some private information that would be collected by the bill.
- Documents Notarized Outside of Oregon. It is unclear how the process will work if a document is notarized outside Oregon. Out-of-state notaries are not governed by Oregon and will not have access to a specific identifier at the time the document is notarized.
- Identifier. County clerks may want to confirm the specific identifier before recording a document. If the clerk does not confirm the identifier, then it will either not solve the problem the bill is trying to address or will slow down the recording process if the clerk refuses to record the document without the identifier. There are many recorded documents that are time sensitive like construction liens or real estate closings.
- Notary Journals. It appears the purpose of the bill is to place information in the notary's journal online. This information is captured in the journal and if the state needs to investigate, it can review the journal as is currently allowed. The state has recourse if a notary is not following the statutory requirements regarding notarization.
- Accessing the Database. The Secretary of State can release information from the database upon request. There appear to be no defined access controls that limit what can be requested and provided to the public. There is no notice to the notaries that their information is being requested and provided. This may empower fraudsters.
- Addressing Fraudulent Deeds. In the event a fraudulent deed or encumbrance is recorded there is a process for getting title fixed. See ORS 205.450 – 205.470. ORS 205.460 outlines the process and includes a template for a petition and affidavit.

While OBA and CBO encourage you to oppose House Bill 2951 as drafted, we stand ready to work with the sponsors to reach mutually agreed solutions. A work group over the interim may be the best course of action to address the concerns related to this issue. If you have any questions, please feel free to contact me at (503) 576-4123 or our lobbyist John Powell at (503) 510-8758.

Thank you.