Summary of 2023 Legislation. Oregon Land Title Association

[HB 2029 (Enrolled)](https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2029/Enrolled)

Summary**:** Increases minimum font size from 8 point to 10 point for recorded instruments.

Comment: We believe footnotes and endnotes will be exempted from the minimum size requirement. (Source: personal communication with clerks.)

Effective Date: January 1, 2024

[HB 2032 (Enrolled)](https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2032/Enrolled)

Summary: Expands registered domestic partnerships under the Oregon Family Fairness Act (OFFA) to individuals of any sex. Previously, registered domestic partnerships were limited to individuals of the same sex.

Comment: While the OFFA aims to extend the ‘privileges, rights, and immunities’ of married persons to registered domestic partners, a tenancy by the entireties is reserved to spouses married to each other per ORS 93.180(3), as modified by Or Laws 2015, Ch. 629 sec. 5.

As a result, there is a difference of opinion whether registered domestic partners are presumed to take title as tenants by the entireties, or even whether they may do so. The best practice is to be explicit if they intend to hold with survivorship. Example language in Bar Books.

Effective Date: January 1, 2024

[HB 2033 (Enrolled)](https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2033/Enrolled)

Background: A deed to an entity exempt from ad valorem taxation (such as government) must be accompanied by a certificate from the assessor stating that all taxes and other assessments have been paid current as of the date of recording. ORS 311.411. Assessors cannot reliably produce the certificates in time for transactions to close and while the recorder is not supposed to accept deeds to exempt entities without the certificate, they manage to be recorded from time to time.

Summary: HB 2033 clarifies that should a deed be recorded without the required certificate, any outstanding charges as of the date of recording may be pursued against the grantor personally per ORS 311.411(6).

Comment: Settlement agents should remember this requirement when closing a sale to a tax-exempt holder.

ORS 311.411(6) states that outstanding amounts no longer impose a lien on the land once in tax-exempt ownership. Does the lien reattach upon a later transfer back into taxable ownership?

Effective date: September 24, 2023

[HB 3294 (Enrolled)](https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB3294/Enrolled)

Summary: Modifies procedure for redaction of discriminatory covenants.

A petitioner owning real property, or a portion of the property affected (such as a lot in a burdened subdivision) may bring an in rem declaratory relief action to remove a discriminatory covenant defined in ORS 93.270(1)(a) from the deed records for the property affected. No parties other than the petitioner need to be joined to the action. The petition shall specify the discriminatory language to be removed, and include as an attachment a certified copy of the deed, declaration, or other instrument containing the provision.

If the court finds the provision is discriminatory, the court enters an order with the recording information of all the instruments affected and attaches a certified copy on which the court has physically struck (redacted) the void provisions. The order is then recorded in the deed records, and takes the place of the original instrument(s). The order has the same effective date as the original instrument(s). The county clerk removes the original instruments from the record and maintains them for historical purposes, but not readily accessible to the public.

Comments: Discriminatory covenants have been unenforceable since the *Shelly v. Kraemer* US Supreme Court decision in 1948, but nonetheless appear in historical property records. California and Washington have had their own attempts at passing legislation to “redact” the covenants from the record, but of course, doing so in a way that preserves the integrity of the historical records without re-publishing the discriminatory covenant poses some challenges.

The goal of this Bill is to permit redaction of the original without republishing the offending covenants, and without adjusting the original priority dates of the instruments in question, which may contain other provisions that are still enforceable.

OLTA involvement: Pat Ihnat worked diligently with Rob Bovett, counsel for the Oregon County Clerks’ Association, to refine the Bill in a manner that would accomplish the above aims and be acceptable to title companies and recording clerks.

Effective date: January 1, 2024

[Senate Bill 308 (Enrolled)](https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB308/Enrolled)

Summary: ‘Small’ estates under ORS 114.505 et seq. are renamed ‘simple’ estates.

Changes to threshold for filing: The simple estate may qualify for administration under the affidavit procedure if the decedent died owning no more than $75,000 of personal property, and $200,000 of real property, with one significant change – real property devised in the will of the decedent to the trustee of a trust of which decedent was settlor, and came into existence prior to the death of decedent does not trigger the threshold limit above.

The trust agreement, or a certificate of trust, shall be filed along with the simple estate affidavit.

Comment: This Bill addresses the common scenario of an estate planning client forgetting to transfer title to real estate to their trust prior to death.

Effective date: January 1, 2024

[SB 619 (Enrolled)](https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB619/Enrolled)

Summary: Permits consumers to obtain from controller that processes consumer personal data confirmation as to whether controller is processing consumer's personal data and categories of personal data controller is processing, list of specific third parties to which controller has disclosed consumer's personal data or any personal data and copy of all of consumer's personal data that controller has processed or is processing. Permits consumer to require controller to correct inaccuracies in personal data about consumer, require controller to delete personal data about consumer or opt out from controller's processing of consumer's personal data under certain circumstances. Requires controller to provide to consumers reasonably accessible, clear and meaningful privacy notice that lists categories of personal data controller processes, describes controller's purpose for processing personal data, describes how consumer may exercise consumer's rights with respect to personal data, lists categories of personal data that controller shares with third parties, lists all categories of third parties with which controller shares personal data and provides other information. Specifies duties of, and prohibits specified actions of, controller and of processor that acts at controller's direction. Permits Attorney General to investigate violations of Act and to bring action to seek civil penalty of not more than $7,500 for each violation. Permits consumer or class of consumers to bring action after specified date for ascertainable loss of money or property resulting from violation of Act.].

Comment:

Effective Date: January 1, 2024

See also: HB3362

List of Bills in LARRC summary.

Check RELU materials.