

OREGON MORTGAGE LENDERS ASSOCIATION

**FINAL
LEGISLATIVE REPORT**

2007 OREGON LEGISLATIVE SESSION

**PREPARED BY:
Markee & Associates, Inc.
August 9, 2007**

2007 Oregon Legislative Session

LEGISLATIVE ACTIVITY SUMMARY

| <u>POSITION</u> | <u>PASSED</u> | <u>FAILED</u> | <u>TOTAL</u> |
|----------------------|---------------|---------------|--------------|
| S-1 | 1 | 0 | 1 |
| S-2 | 2 | 1 | 3 |
| S-3 | 7 | 16 | 23 |
| Total Support | 10 | 17 | 27 |
| O-1 | 0 | 6 | 6 |
| O-2 | 0 | 5 | 5 |
| O-3 | 1 | 12 | 13 |
| Total Oppose | 1 | 23 | 24 |
| N/P | 57 | 86 | 143 |
| Total | 68 | 126 | 194 |

| KEY | | |
|------------|-------------|------------------|
| S-1 | Support | Highest Priority |
| S-2 | Support | Medium Priority |
| S-3 | Support | Low Priority |
| O-1 | Oppose | Highest Priority |
| O-2 | Oppose | Medium Priority |
| O-3 | Oppose | Low Priority |
| N/P | No Position | |

**Oregon Mortgage Lenders Association
Final Legislative Report
2007 Regular Legislative Session
By: Markee & Associates, Inc.**

The 2007 regular session of the Oregon legislature came to a close mid-afternoon on June 28th. This was Oregon's shortest legislative session in many years, and ended a day ahead of the self imposed deadline set by the legislative leadership at the beginning of the session. As in many other places across the country, the 2006 general election swept many democrats into office in Oregon. As a result Oregon's legislature was under democratic control in both the Senate and House of Representatives for the first time in twenty years. In addition Governor Kulongoski was re-elected in 2006, giving the democrats full charge of the executive branch as well as the legislative branch of Oregon's government. This full democratic control resulted in the promotion of issues the democrats felt had been stifled by republicans in past legislative sessions, in which at least one house had been under republican leadership. The democratic leadership's agenda was clearly dominated by consumer protection, education, labor, and environmental issues. As a result of their efforts, we will see more government regulation of business in Oregon throughout all sectors. The resulting effect of these measures on Oregon's economy remains to be seen. The legislature did manage to create Oregon's first ever rainy day fund to help in times of future economic downturns, and to fund education at its highest ever level. Additionally, they funded 100 new police officers for the State Police. Some in state government believe that the budget created by this legislature is not sustainable beyond this biennium, but again, only time will tell.

The Oregon Mortgage Lenders Association fared quite well in this legislative session. Your legislative committee, led by Jim Temple and Chris Ambrose, really stepped up and did an outstanding job. Jim and Chris were assisted in their efforts by Joan Crew, Jack Zuber, Pete Behr, David Fennel and Wally Harding. Wading through some 3,000 bills that were introduced this session, our office identified approximately 200 bills that potentially affected the mortgage industry. Your committee sorted through the legalese and political jargon to established positions on 194 of the bills which our office had identified, and agreed the others had no effect on the industry. Each bill was categorized by the committee as either a support, oppose, or neutral position. The committee then prioritized each bill supported or opposed with a priority number of 1, 2, or 3; 1 being the highest priority and 3 being the lowest. Your committee opposed 24 bills on your behalf, only one of which passed while 23 were defeated. They supported 27 bills, of which 10 passed and 17 failed. They took a neutral position on 143 bills, of which 57 passed and 86 failed. It is worth noting that of the 57 bills passed in this neutral category, several of them were opposed as introduced and were successfully amended to alleviate your committee's concerns before passage, causing the committee to change their position to neutral.

On the following pages is a synopsis of major legislation defeated this session, a synopsis of bills passed this session and a complete status summary of all legislation tracked for OMLA.

Legislation Defeated:

Perhaps the most important work for your legislative committee was working for the defeat of the 24 bills opposed by OMLA. 23 of the 24 were defeated outright. Of these 24 bills, six were categorized as O-1, or oppose with the highest priority. All six were defeated. The following bills are the worst of the worst, all of which were defeated. Keep in mind that there were lots of folks who wanted to see these bills pass. A great deal of effort went into stopping some of these bills.

SB 38 was introduced at the request of housing advocates as an attempt to create a funding stream for low income housing. It proposed a \$15.00 surcharge on all documents recorded with the county clerk. Because the money would be used for a purpose unrelated to the recording fee, it was determined that the bill was a tax and therefore had to be introduced in the House of Representatives since all tax measures must originate there. The bill was later re-introduced as HB 3551 which was eventually also defeated in the Ways and Means Committee.

SB 965 was introduced by Senators Avakian, Brown, and others. The bill as introduced put restrictions on high cost mortgage loans. We had defeated legislation similar in the 2005 session. As the Senate worked on the bill, a suggestion was presented by the Oregon Bankers Association to simply use the bill as a vehicle to adopt the federal guidelines on mortgage lending that had been promulgated. The Senate took this suggestion and re-wrote the bill in a form that made the federal guidelines absolute mandates for lenders, and created a right of private action by a borrower against a lender who made him a loan he defaulted on. The entire lending community objected to this approach, and the House of Representatives reacted by exempting banks and credit unions from the bill, and moved it to the floor of the House for a vote. We worked diligently with our allies to defeat the bill and in the end our opposition was strong enough that the House leadership sent the bill back to committee where it died. The Mortgage Bankers of America were concerned enough about this bill that they sent Chris Oswald of their Washington D.C. staff to Oregon to help us. Chris made two trips here, and his help was significant in the defeat of this bill. This bill could have created a catastrophe in the housing market. There will likely be a study of mortgage lending practices starting sometime this fall due to the growing concern over increases in foreclosure rates. We are engaged in discussions with your state regulators regarding these issues.

HB2857 was introduced at the request of the State Court Facilities Task Force. This task force met during the interim period before the 2007 legislative session to come up with funding mechanisms to upgrade our courthouses, many of which are in ill repair. The task force, made up of lawyers and judges, suggested a \$3.00 per page fee on all documents recorded at the county clerk's office, along with a \$100.00 per year fee to be assessed against all Oregon corporations **except** professional corporations. The bill was defeated after hearings in the House Judiciary Committee. We suggested to the lawyers on the committee that a surcharge on dues paid to the Oregon State Bar might be considered as an alternative.

HB3052 would have imposed a real estate transfer tax of one percent of the consideration given on transfers of real property. Three hearings and two work sessions were held on the bill in the House Revenue Committee, but the bill remained in committee upon adjournment.

HB3258 would have allowed counties dependant upon federal forest reserve receipts to impose a real estate transfer tax. The bill died after one public hearing.

HB3474 would have required a mortgage or trust deed lender to prorate a prepayment privilege penalty for any prepayments made after the first year of the loan agreement. This bill died without a hearing.

HB2019 would have authorized school districts to establish impact fees, or system development charges for schools, together with administrative charges for administering the program. The bill died after one public hearing and much debate.

HB3029 would have allowed loan originators working for a mortgage banker or broker, to act as an independent contractor. The bill made other related changes to the mortgage banker/broker statutes. The bill was referred to the Consumer Protection Committee where it died.

HB3284 would have allowed a city, county or metropolitan service district to impose requirements that effectively would establish the sales price of a housing unit or residential lot, or that would essentially restrict purchasers to a certain class. The bill was referred to the Rules Committee where it never got a hearing.

HB3403 would have required that an automatic transaction payment in excess of twice the amount due under a loan agreement secured by a mortgage or trust deed be applied to a reduction of loan principal. This bill died in the Consumer Protection Committee.

SB673 would have allowed a real estate broker to pay a share of his commission to a principal of the real estate transaction. The bill died in the Business Committee.

There were a dozen other bills which we opposed that were defeated, but this list of the worst should give you a flavor of what your committee had to deal with. There seems to be no shortage of bad ideas when the legislature is in session. We would like to emphasize again how much time and effort went into defeating these measures. Stop and think about what your life would be like had just a few of them passed.

One bill which we were opposed to passed. This was **HB2781**, which establishes a 36% APR cap on consumer finance companies. The bill will not apply to consumer finance companies that are subsidiaries of federally chartered banks, as federal law pre-empts state regulation of such entities. While this bill will not have a direct impact on most of our members, the entire lending community took a unified stand to oppose it. Unfortunately, the bill passed in spite of our opposition.

In addition to the bills that were defeated outright, your association opposed as introduced, but was successful in amending to remove objectionable language and thus changing our position to neutral. Examples include:

HB3313 which was a bill dealing with clean up of drug houses. The bill as introduced would have allowed local governments to take possession and clean up the house, and have an automatic lien for their work which would have come in front of the mortgage. We got the bill amended to required notice to the lender, adequate time for the lender to clean up the property himself following notice, and to restrict the types of properties to which the bill would apply. The bill was passed after we changed our position to neutral.

SB484, as introduced, created an unlawful trade practice of including a clause or provision in a contract for the sale or lease of real estate, goods or services that required mandatory arbitration. The bill was successfully amended to simply allow a consumer to revoke a provision in a contract that would require him to assert a claim in a forum not in this state in certain instances. The sole remedy in the amended bill is that the assertion of the claim must be allowed in a venue in this state. We removed our opposition after the amendments were adopted and the bill passed.

SB1036 restricts local government's power to impose construction excise taxes. The bill does allow school districts to impose construction taxes. We opposed the original bill, but withdrew our opposition as the bill was moved through the process and was amended. We consider this approach to creating revenue to build new schools preferable to systems development charges and real estate transfer taxes. Under the provisions of the bill as passed, school districts will be allowed to impose a construction excise tax of up to \$1.00 per square foot on newly constructed residential property and up to 50 cents per square foot on newly constructed commercial and industrial property, with an absolute cap on commercial and industrial property of \$25,000.00.

There were numerous other bills which we successfully sought amendments to, some of which ultimately passed and some of which failed.

Legislation Passed:

In addition to our defensive game of defeating and amending less than desirable bills, your committee was engaged in a variety of legislation that was actively supported by the association. Of the 27 bills that we supported, ten passed and seventeen failed. A few of the more important bills passed is outlined below. Additionally, there were 143 bills that we were neutral on, 57 of which passed and 86 of which failed. Several of these bills were originally opposed and amended to alleviate our concerns. There were another 20 land use bills which we tracked during the session, but that we did not take a position on. A separate report is included of those bills, 6 of which passed. Some of the more important legislation which we supported and that passed follows.

SB447, introduced at the request of the Oregon Bankers Association, was given our highest priority. This bill broadens the scope of the crime of identity theft to include stealing the identity of people who are deceased. This has been a huge problem across the country and the Oregon law did not criminalize the activity. The bill passed with overwhelming support.

HB464 creates the crime of aggravated identity theft for multiple offenses within 180 days. We strongly supported this bill and it too, passed overwhelmingly.

SB301 was introduced at the request of the debtor creditor section of the Oregon State Bar upon the urging of our member David Fennel. David worked tirelessly on this bill which allows alternative means of service for a trustee to serve a notice of sale on the property occupant. Under the provisions of the bill as passed, if service cannot be affected on the occupant on the first attempt, the person attempting service posts a copy of the notice on the property. He then must make a second attempt at least two days later and if unsuccessful, post a second notice. He then makes a third attempt and if unsuccessful, send a copy of the notice to the occupant at the address by first class mail. David is to be commended for his work on this bill. After many hearings and amendments, the bill passed.

HB2156 was introduced at the request of the Oregon Department of Veteran's Affairs who is a member of OMLA. The bill makes several changes in the law to make their home loan program work better. We supported the bill and it passed.

HB2159, also introduced at the request of the Oregon Department of Veteran's Affairs, removes the monetary limit on farm loans to veterans. The bill passed with our support.

HB2490 prohibits escrow agents from imposing requirements that delay the disbursement of funds and property. The bill passed with broad support.

SB66 increases the funding for low income housing projects through the Department of Housing and Community Services. We have many members who partner on these projects with the state and non-profit agencies. The bill passed.

SB583 was the culmination of a seven month long workgroup that your lobby team was actively engaged in. The bill aims to curb identity theft by requiring notice to consumers of security breaches, allowing consumers to freeze their credit file with credit reporting agencies, and through more strict protections of social security numbers. The bill strikes a balance between protection of consumers and the free flow of commerce in the financial sector. Businesses that are covered under Gramm Leach Bliley are given a safe harbor in the bill if they are in compliance with the federal act. Enforcement of the provisions of the bill is given to the Department of Consumer and Business Services. This bill has been hailed as a model for the rest of the country. The bill passed with the support of the entire financial community.

SB613 requires that a written instrument assigning a mortgage or trust deed and presented to a county clerk for recording show the name and address of the assignee. The bill passed with our support.

SB725 prohibits multiple listing services, real estate broker's organizations, or other organizations selling or renting dwellings, to discriminate based on disability, race, color, sex, and marital status, source of income, family status, religion or national origin. The bill passed.

Summary:

This session marked the beginning of a new era in Oregon politics, in which the legislative agenda for the foreseeable future will be largely determined by democratic leaders who rely on large unions and consumer advocate groups for their guidance. The democratic leadership of the Oregon Legislature has not proven friendly to businesses in the financial sector. Part of the problem is of our own making. We must do a better job of educating legislative leaders about our issues. Most of the legislators who support legislation that would create problems in our industry simply do not understand the implications of their actions. In trying to do what they believe to be the right thing, they would create unintended consequences for the industry that would cause havoc. Educating them will take time and considerable effort. This will require more involvement of our membership as we move into the future. We hope that you will find the time to be involved with your association. You will find that it pays dividends.

On the following pages is a complete summary of all the bills the OMLA legislative committee worked on this legislative session. It has, as always, been a pleasure to work with the association this session. Now the work of the interim begins, where the agenda for future legislative sessions will be set. Your legislative committee and your lobby team will be actively engaged at all levels of state government to advocate for your best interests.