

**OREGON MORTGAGE LENDERS ASSOCIATION**

**FINAL  
LEGISLATIVE REPORT**

**2011 OREGON LEGISLATIVE SESSION**

**PREPARED BY:  
Markee & Associates, Inc.**

## 2011 Oregon Legislative Session

### LEGISLATIVE ACTIVITY SUMMARY

<u>POSITION</u>	<u>PASSED</u>	<u>FAILED</u>	<u>VETOED</u>	<u>TOTAL</u>
S-1	0	0		0
S-2	1	1		2
S-3	5	14		19
<b>Total Support</b>	<b>6</b>	<b>15</b>		<b>21</b>
O-1	0	10		10
O-2	0	9		9
O-3	2	14		16
<b>Total Oppose</b>	<b>2</b>	<b>33</b>		<b>35</b>
Neutral	20	24		44
Other	1	1		2
<b>Total</b>	<b>29</b>	<b>73</b>		<b>102</b>

### 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
Neutral	No Position	

**OREGON MORTGAGE LENDERS ASSOCIATION  
FINAL LEGISLATIVE REPORT  
2011 REGULAR LEGISLATIVE SESSION**

By: Jim Markee  
Markee& Associates, Inc.

**SESSION OVERVIEW**

The 2011 regular session of the Oregon Legislature came to a close mid-afternoon on June 30<sup>th</sup>. The overall tone of the 2011 session was dramatically influenced by a series of events occurring well before the session started. The first occurred following the 2009 regular legislative session, when the business community acted to get tax increases passed by the democratically controlled legislature referred to the voters at a special election. While the effort to defeat what became measures 66 and 67 were unsuccessful, the business community coalesced around their opposition to these measures, and a new group of over 40 business lobbyists and their clients was formed. During the 2010 Special Legislative Session, Democratic Speaker Dave Hunt was accused of acts of retaliation against those who had opposed measures 66 and 67. This further solidified the group which had become known as the Oregon Committee. They began meeting regularly and engaged in a coordinated campaign effort aimed at changing the make-up of the Oregon Legislature. The past two sessions had been dominated by the Democrats who held super majorities in both Houses. Business had felt the sting of anti-business legislation, arrogance and high handedness on the part of the majority democrats, and now tax increases to business and high income citizens. This new group worked closely with the Republican Leadership throughout the 2010 Oregon general election. The results were dramatic. The Republicans picked up six seats in the House of Representatives and one seat in the Senate. The Oregon House of Representatives was split evenly at 30 Democrats and 30 Republicans for the first time in the history of the State, and the Democrats barely held on to their majority in the Senate with a 16 – 14 split. While Senator Peter Courtney, D, Salem, maintained his position as President of the Senate, the House Democrats threw out Speaker Dave Hunt and elected Arnie Roblan, D, Coos Bay, to replace him. The two parties came to a power sharing agreement in the House in which each party elected a co-speaker who shared the power of the gavel, with Arnie Roblan, D, Coos Bay being the Democrat's choice, and Bruce Hanna, R, Roseburg, being the Republican's choice. The co-speakers then named an even number of democrats and republicans to every committee. Each committee had co-chairs, one from each party, both of whom had veto power over bills being moved forward. Many checks and balances were put into place to allow for overriding decisions where the will of a majority were being thwarted. Oregon had never seen this kind of power sharing arrangement, and most pundits were skeptical. In the Senate, President Courtney named more members of the minority party to positions of power than had ever been done. A tone of conciliation rather than rancor had been set. Still, insiders said it could not work, and a meltdown would surely to occur. But as the session progressed, it became clear that both parties were making a real effort to work together under difficult circumstances. With the state seeing a huge revenue shortfall, high unemployment, and many vulnerable citizens needing assistance, answers would not come easily. Co-Speakers Hanna and Roblan navigated the difficult waters with grace, and ultimately found that while they had philosophical differences, they genuinely liked each other. They held joint town hall meetings in their respective districts and talked with the press openly about their power sharing arrangement. While there were still partisan battles, there was also a new and healthy mutual respect between the parties. Extreme measures died, and reasonable compromises were reached where needed, all of which made for a more congenial session than we had seen in a very long time.

## **OMLA LEGISLATION**

The Oregon Mortgage Lenders Association can be proud of their accomplishments in this legislative session. With the Housing market still in turmoil, and foreclosures continuing at an unprecedented rate, there was no shortage of ideas from left leaning legislators and special interest groups to fix the problem. The OMLA lobby team and your legislative committee, headed by Bob Hefty of Pacific Residential Mortgage, worked tirelessly to stop well intentioned legislation, most of which would have probably made the problem worse instead of better. Your lobby team also worked closely with the other associations involved in the mortgage industry, including the Oregon Bankers Association, The Northwest Credit Union Association, The Oregon Association of Realtors, and the Oregon Association of Mortgage Professionals. In all, your legislative committee reviewed over 130 bills identified by your lobbyists as potentially affecting the mortgage lending industry. Several were deleted from our tracking system as they were identified as harmless, while we continued to track 102 bills throughout the session.

The bills were segregated into six categories; Residential Lending, 14 bills; Commercial Lending, 11 bills; General Lending, 38 bills; Foreclosure, 12 bills; Land Use, 9 bills; and Miscellaneous, 18 bills. Legislative committee members reviewed bills in their respective areas of expertise, and the committee took positions on them accordingly. Your legislative committee supported 21 bills, six of which passed; opposed 35, two of which passed and 33 of which were defeated; and took a neutral position on 46, 20 of which passed. All bills supported or opposed were prioritized as a 1, 2, or 3 priority, with 1 being the most important and 3 the least important. The two bills which we opposed that passed were both low priority bills. Additionally, of the neutral bills that passed, several were originally opposed by OMLA, but were amended to alleviate our concerns and the committee changed our position to neutral. We additionally tracked two bills that the committee did not take a position on, one of which passed.

While many of the bills passed by the legislature will have some impact on the mortgage industry, by far the most important accomplishment of this session was the defeat of bills we opposed that might have otherwise passed. Below are outlined several of the worst bills introduced into this session, that were among those defeated through the efforts of OMLA and our allies.

### **BILLS DEFEATED**

33 of the 35 bills opposed by the OMLA were defeated in this legislative session.

#### **SB 198**

This bill would have created mandatory mediation between a trustee and grantor before a foreclosure sale could occur on a residential trust deed. It required notice of procedures, and documentation identifying the beneficial owner of the loan. The bill also allowed local government to assess civil penalties for neglect of foreclosed properties. The bill never made it out of the Senate.

#### **SB 300**

This bill, introduced at the request of homeowners associations, would have gave a super priority to homeowner association liens, putting them ahead of the first mortgage. The bill died.

**SB 663**

This bill would have prevented a loan from being sold, assigned, or otherwise conveyed, for the first five years of the loan. It would have shut down the mortgage industry. It died in committee.

**SB 826**

This bill would have authorized the Oregon Department of Consumer and Business Services to adopt rules to regulate servicers of mortgage loans. The bill would have required servicers to respond to and take action concerning borrower's qualified correspondence with certain time limits, and to implement procedures to enable servicers to respond to a borrower promptly. It would have regulated servicer fees, and charges, and required them to report to DCBS on a regular basis. It also required servicers to fully inform borrower of all options relative to modifications. Any violation would have been subject to enforcement by the Attorney General under the unlawful trade practices act.

**SB 827**

This bill would have required lenders to record an affidavit of compliance with loan modification requirements contained in ORS chapter 86, and to provide borrowers with a modification form with the notice of sale. It also removed exemptions from the law governing mortgage loan modifications, and required that a trustee be a resident of this state. The bill passed the Senate but died in the House.

**HB 2172**

This bill would have instituted rent control for manufactured homes and floating homes. It also created new regulations for landlords as to dispute resolution with tenants, and a center for dispute resolution to administer the new program. The bill died in committee.

**HB 2351**

This bill would have increased the maximum fee for recording mortgage loan documents by another \$10.00. The bill died in committee.

**HB 2472**

This bill would have required a trustee or beneficiary to respond in writing to a grantor not later than 30 days after receiving a communication from the grantor that was related to the grantor's mortgage, and prescribed standards for the response. It also removed the sunset provision from temporary laws previously passed dealing with modifications, and made violations subject to enforcement by the Attorney General under the unlawful trade practices act. The bill died in committee.

**HB 2518**

This bill would have allowed local governments to impose a real estate transfer tax. The bill died in committee – thank God.

**HB 2839**

This bill would have required the seller of real estate to obtain an energy audit prior to selling, and provide a copy to any buyer submitting an offer to purchase. The buyer could then withdraw his offer based on the audit, or revoke his offer if the seller did not furnish an energy audit. The bill died.

**HB 3183**

This bill would have allowed cities and counties to establish rent control within their local jurisdiction. The bill died.

**HB 3663**

This bill would have limited the tax deduction allowed for mortgage interest to a total of \$15,000.00. The bill died without a hearing.

**HB3639**

This bill would have permitted local governments to assess a civil penalty for each day during which an owner fails to remedy conditions of neglect. The bill was aimed at bank owned foreclosed properties. It failed following public hearings, although the proponents were engaged in attempts to pass it to the end of the session.

**SB 484**

This bill would have required documentation showing complete chain of title that would establish the beneficiary as the real party in interest with respect to a loan to be foreclosed. This bill would have shut down foreclosures. The bill died following public hearings.

**SB 516**

This bill would have established that an interest rate of nine percent would apply to any judgment or court-mandated arbitration award, on a contract that carried a higher interest rate than that. The bill died in committee.

In addition to the above bills, representing the worst of the lot, there were another 19 bills opposed by OMLA that were defeated. Two bills passed in spite of our opposition. They are listed below.

**OPPOSED BILLS THAT PASSED****HB 3317**

This bill was introduced at the request of a coalition of Homeowners Associations. The bill provides that when a change to the declaration, bylaws or other governing document of a homeowners association, that requires approval of the mortgagee, if the mortgagee receives a request for approval or consent to the change, the mortgagee is deemed to have approved the request unless the mortgagee delivers or posts a negative response to the requesting party within 60 days after receipt of the request. The request from the homeowners association must be in writing, name the mortgagor, identify the property securing the mortgage, identify the mortgage by loan number or reference to the county recording office with date of recording and index numbers, and be delivered to the mortgagee by certified or registered mail, return receipt requested. We were the only lender group that opposed this bill, and it passed. The bill becomes effective January 1, 2012.

**HB 3516**

This bill allows solar energy systems as an absolute permitted use if zoning allows commercial or residential structures, providing the system meets criteria established in the bill such as not exceeding the height of the building structure, and being on the same plane as the roof line. The bill would render covenants that prohibit installation of solar energy devices moot. We were the only organization to oppose this bill, and with the push for alternative energy, our arguments were not effective, and the bill passed overwhelmingly.

In addition to dealing with negative legislation, your OMLA legislative committee did support some good legislation that passed and will become law. While it was a difficult session to pass anything in, five bills passed that are worth mentioning and that will be beneficial to OMLA members.

#### **SUPPORTED LEGISLATION PASSED**

##### **HB 2083**

This bill exempts from disclosure any mortgage loan documents that the Department of Consumer and Business Services obtains during a mortgage lender examination. These documents have, in the past, been subject to the public records law. The bill became effective June 16, 2011.

##### **HB 2084**

This bill will provide the Department of Consumer and Business Services more flexibility in the appointment of advisory committees for the adoption of administrative rules. These committees are made up of people likely to be affected by the rules under consideration, and lenders will continue to be well represented on them. The bill became effective June 16, 2011.

##### **HB 2499**

This bill transfers the regulation of appraisal management companies from the Department of Consumer and Business Services to the Appraiser Certification and Licensure Board on January 1, 2012. While DCBS was given this regulatory function upon passage of the initial legislation in a previous session, it was felt that the Appraiser Board was better equipped to handle the regulatory duties of the act. The bill became effective June 21, 2011.

##### **HB 2614**

This bill removes the requirement for an institution to write down 5% of the book value of real estate each year that the institution holds the real estate, when the real estate was acquired in the collection of debts, or was purchased at execution or under a judgment. The bill became effective June 23, 2011.

##### **SB 740**

This bill requires that real property sold by a sheriff pursuant to a writ of execution be described by legal description and by the street address, if any. While these descriptions are commonly used, they have never been required by law. The bill is effective January 1, 2012.

#### **SUMMARY**

Your OMLA Legislative Committee has once again brought home a successful legislative session. While this was a session in which mortgage lenders were targeted by consumer advocates and other special interest groups, the industry prevailed because of the efforts of hard working people like the ones who make up you legislative committee. Led by Bob Hefty, the other members include, Pete Bair, Jim Temple, Chris Ambrose, Mary Linton, Robert Sabido, Eric Wiley, and Jennifer West. Be sure to thank them for their work when you see them.

We now must turn our attention to the future. There is much to do as we continue working with the legislature to find solutions to problems facing our industry and in a broader sense, all Oregonians. We will work within the political arena to find solutions that work for everyone. We are proud to represent this fine industry, and we look forward to a long and prosperous relationship.