

**2010 Oregon Special Session
OMLA Final Legislative Report
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Overview

The Oregon Legislature adjourned its February Special Session on Thursday, February 25th at about 2:00 p.m. The session's main purpose was to demonstrate to the public the need for a short legislative session to supplement the work of the regular session which only occurs every other year in odd numbered years. This was the second of such experimental sessions, the first occurring in February of 2008. The legislature hopes to move Oregon voters to support annual sessions with this shorter supplemental session occurring in February of even numbered years. On the last day of this little special session, they passed Senate Joint Resolution 41, which will put the issue of annual legislative sessions on the ballot. Under the provisions of the measure, the legislature would be limited to 160 day sessions in odd numbered years, and 35 days in even numbered years. The number of days could be extended by a vote of two thirds of the legislature. It will be interesting to see what the voters think of annual sessions. Some legislators seem to want them more than life itself. The issue will be before the voters on the November ballot, later this year.

While adjournment of the month long session came prior to the target date set by the legislature, they were in session long enough to pass one hundred of the some 220 bills introduced into the session. The total bills introduced was double that of the 2008 special session. Many of the bills were not particularly controversial, while others were strongly opposed by business interests. Passage of the more controversial bills continued to widen the rift between the democratic leadership of the legislature, and the Oregon business community. There were continuing allegations that the Speaker of the House, Representative Dave Hunt, was pushing legislation opposed by certain business groups, in retaliation for their opposition to the recently passed ballot measures 66 and 67. Those measures raise \$733 million in new taxes from business and wealthier Oregonians. News accounts of the alleged retaliation were widely circulated, and business lobbyists were more candid than would be expected regarding the controversy. Several bills were introduced aimed at the lending industry, which some claimed were due to the Oregon Bankers Association's \$100,000.00 in contributions to the measure 66 and 67 opposition campaign. Retaliation or not, the democratic majority pushed hard for the passage of these bills. Unfortunately, some of them passed, and will affect the businesses of OMLA members. Our firm identified sixteen bills during the special session that had some impact on mortgage lending. The OMLA legislative committee, under the direction of co-chairs Mary Linton and Bob Hefty, met weekly throughout the session with your lobby team. They established positions and priorities on all bills identified, and discussed ongoing strategies. Mary, Bob and their committee did outstanding work during this session and their work led to many successes in protecting our member's interests. On the following pages, is a brief explanation of the more important of these bills, along with a complete bill status summary of all the bills we dealt with during this special session.

Major Bills

HB 3610 deals with technical aspects of foreclosure proceedings. Under current law, affidavits are required to be recorded on or before the date of foreclosure and so could possibly be recorded on the same date, but after the foreclosure. The bill corrects this in its final form by requiring the recording at or before the time of foreclosure. The bill also requires a notice to a borrower, who is denied a modification, which explains how the beneficiary calculated that the borrower was not eligible. OMLA opposed this bill as introduced. Chris Ambrose took the lead on this bill for the OMLA Legislative Committee, and along with the efforts of other members of the financial lobby, several amendments were adopted which improved the bill. It will have little impact on our members as passed.

HB 3615 This bill would have added lending, the extension of credit, and insurance to the provisions of the Unlawful Trade Practices Act, granting the Attorney General enforcement power over lenders and insurance companies, as well as a right of private action for consumers. The bill died in committee with strong opposition from OMLA and other lenders, along with the insurance industry. See HB 3706 for more information on this issue.

HB 3624 requires the regulation of appraisal management companies under the Department of Consumer and Business Services. We opposed the bill as introduced as it required the regulation of these companies to be under the Board of Appraisers and seemed to work a hardship on smaller Oregon appraisal management companies. With amendments adopted by the House of Representatives however, we withdrew our opposition. The Senate further amended the bill and passed it. We will be working closely with the Department of Consumer and Business Services on rulemaking for this new regulatory program.

HB3650 would have repealed the prohibition against cities, counties, or metropolitan service districts to create exclusionary zoning that effectively establishes the sales price for housing or that limits availability of housing in certain areas. We strongly opposed the bill and it died in committee.

HB 3654 allows the Department of Consumer and Business Services to waive, upon request, surplus requirements for mortgage insurance companies. We supported the bill and it passed.

HB 3656 deals with deficiencies on second mortgages on 80-20 loans. It is an expansion of a very narrow bill, HB 3004, which was passed in the 2009 legislative session. The original bill prohibited the recovery of a deficiency on a second lien in a foreclosure where the same party was the lender on both the first and second, and that same lender held both at foreclosure. The original bill contained some technical flaws that needed to be fixed. HB 3656 makes the technical fixes, but also expands the prohibition on collection of a deficiency on a second mortgage to any second made by the lender or an affiliate of the lender making the first, regardless of who holds the second at the time of the foreclosure. It would also apply if the same lender held both the first and second at foreclosure regardless of who made the loan secured by the second. It will however, only apply where both the first and second were made the same day as part of the same transaction. We supported the technical fixes, but opposed the expansion, which was much broader in the original bill. Following the adoption of amendments to narrow its scope, the bill passed.

HB 3657 would have created statewide penalties for owners of foreclosed properties that were neglected. This would have been in addition to any local ordinances creating penalties. As introduced, the bill called for penalties of \$1,000.00 per day, but was later amended to \$150.00 per day. We remained opposed to the bill, and it eventually died in the Senate Rules Committee.

HB 3706, like HB 3615, dealt with the unlawful trade practices act. When HB 3615 did not have the votes to be moved out of the House Consumer Protection Committee, the House Revenue Committee introduced HB 3706 the next day. Where HB 3615 had put insurance, lending, and the extension of credit under the act, the new bill only targeted lending and the extension of credit. The bill was referred to the House Rules Committee the same day it was introduced, and had a hearing that afternoon. Following testimony from most of the financial community in opposition, the bill was quickly moved to the floor of the House where it passed on a mostly partisan vote. Moving to the Senate, the bill was referred to the Rules Committee where it was moved to the floor of the Senate without even having a public hearing. The bill passed the Senate 18 to 12, again, mostly along party lines. This bill as passed, will give the Attorney General authority to pursue an action against a lender under the Unlawful Trade Practices Act if referred to him by the Department of Consumer and Business Services. It will also allow consumers a right of private action against a lender for violations of the Unlawful Trade Practices Act. These remedies will be available in addition to the remedies that exist under current regulatory mechanisms. We strongly opposed this bill throughout the process, as did the Oregon Bankers Association, The Oregon Credit Union League, and the Oregon Association of Mortgage Professionals, and others. The democratic leadership simply made the passage of this bill a top priority, and we were unable to overcome the pressure they exerted on their members.

SB 1001 made the automatic renewal of consumer contracts a violation of the Unlawful Trade Practices Act, unless they complied with certain notice and express consent requirements. While we remained neutral on this bill, it was watched closely throughout the process to ensure that it not interfere with mortgage lending. The bill ultimately died in committee in the Senate.

Summary

Several other bills were reviewed by your legislative committee, and monitored throughout the session. Though the committee remained neutral on the remaining bills, these bills were followed closely and amendments were reviewed by the committee to ensure the bills had not been amended to negatively affect the industry. These bills are included in our Full Bill History Report.

With the session over, we had hoped that the legislative leadership would mend fences with the business lobby, but that will not be easy with the hard feelings that exist on both sides. With elections looming, the business lobby is gearing up to take its fight to the voters in an attempt to elect more business friendly legislators in key districts. Breaking the Democrat's super majority in both Houses of the legislature will be the business lobby's highest priority this election cycle. Just as committed, are the public employee unions, on the other side of the fight. This continuing battle is likely to make the 2011 legislative session even more partisan than previous ones, with little hope of meaningful bipartisan solutions to problems. To make things worse, the economists are projecting a budget shortfall of some \$2.5 billion for the 2011-2013 biennium, partly due to continued high levels of unemployment, and partly due to the spending of one time federal stimulus money in the current budget to prop up current service levels. While this special session seemed particularly difficult, the next is likely to be tougher, unless the business community is successful in electing more business friendly people to the legislature.

