



# Oregon Land Title Association

Oregon Legislative Report

2018 Session



**Submitted by**

**CFM Strategic Communications**

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## **SESSION SUMMARY**

In the weeks leading up to the 2018 short legislative session, it was unclear which central issue legislators would focus on addressing. The reason for that uncertainty was Measure 101, its success or failure determined whether lawmakers would enter the 2018 session with a \$200-\$300 million budget hole to fill. Measure 101 passed resoundingly, leaving room for legislators to focus on other democratic priorities.

With control of both chambers and the Governor's office, Democrats set the agenda for the session, which included a proposal to implement a cap and invest program to curb carbon emissions, a measure to enshrine the right to affordable and effective health care in the state Constitution, a revamp of the state's contracts with coordinated care organizations (CCOs), reconnection with the federal tax code following the Trump tax cuts, tweaks to the gun background check system, and others. While the agenda was ambitious, legislative leaders warned that big policy changes were unlikely to pass in the short session, and by-and-large that proved true as the House and Senate gaveled out for the final time at 4:54 p.m. on Saturday, March 3, more than a week before the Constitutionally-mandated deadline to finish their work.

Once the Measure 101 election results were in, the major policy focus of the legislative session became a proposal to cap carbon emissions in the state. After several iterations of the proposal, and much negotiation between House and Senate Democrats, that effort was ultimately unsuccessful. The issue is likely to return in the 2019 session, and there is considerable optimism among proponents that a cap and invest proposal will pass at that time. Lawmakers have already begun mimicking the successful process that yielded 2017's transportation package by creating a large bi-partisan, bi-cameral committee and sending members around the state on a listening tour with constituents. Ultimately, the goal is to bring a bi-partisan legislative vehicle in 2019 to accomplish the goal of carbon reduction. However, a significant difference between the transportation package success and the current iteration of the cap on carbon emissions is the lack of Republican support, which is vital to a smooth passage process.

While cap and invest didn't pass this session, legislators were able to pass many other bills, including a firearm ban for people with certain domestic violence and stalking convictions (labeled the "boyfriend loophole" bill), a measure to increase price transparency for prescription drugs, legislation to increase funding for affordable housing, and a bill to support net neutrality. Perhaps the most controversial bill to pass this session eliminated a tax deduction for pass-through businesses, recently established by the federal tax cuts and jobs act. The



removal of the state tax deduction will result in an additional \$250 million in state revenue.

The session was not without drama, however, and perhaps the most historic moment had nothing to do with legislation. Senator Jeff Kruse (R-Roseburg), the subject of a sexual harassment investigation, announced his resignation early in session after several weeks of speculation about his future. Accused late last year by two fellow senators of inappropriately touching them, a legislatively-commissioned report found that Kruse had engaged in a pattern of inappropriate behavior over a number of years involving at least ten women. While Kruse initially refused to resign, he eventually succumbed to calls from legislators on both sides of the aisle and tendered his resignation during the second week of session to take place on March 15. Even the resignation itself was not widely supported among Republicans or insiders. Some believed he should not continue to receive the per diem and monthly pay associated with the extended time in office.

As we look towards the 2019 legislative session, which will begin February 4, legislators have several dates circled on their calendars. The most important is the general election on November 6, which will include a Gubernatorial race, five House Congressional races, several statewide office races, 16 senate and 60 house legislative races.

With tremendous legislator turnover, especially in the House, the 2018 election season will be packed with competitive races. Nine Republicans and at least two Democrats have announced that they will not seek re-election, hence the revolving door that has been Oregon's lower chamber will continue to be populated with fresh faces. Additionally, Senator Alan DeBoer (R-Ashland) confirmed what was likely the worst-kept secret in the Capitol when he announced near the end of session that he would not seek re-election. Senator DeBoer's announcement opens up a competitive seat. Expect big spending by both parties as Democrats look to gain a supermajority in the Senate.

In addition, Oregon will face a heated closed primary election on May 15, where political parties will appoint their representatives for the November general election. By the May 6 filing day deadline, ten Republicans have entered the primary for Governor. Front-runner Rep. Knute Buehler is focused on convincing his party he has enough conservative credibility for the candidacy while also remaining appealing enough for general election voters. Beyond the crowded Gubernatorial race, the primary to watch may be in Senate District 24, where former state Representative Shemia Fagan is challenging long-term incumbent Senator Rod Monroe (D-N. Portland). Fagan will enjoy the support of many progressive groups in the state, while Monroe is supported by many business-oriented interests.



Another upcoming key issue is that Senators who secure a seat in this year's election will participate in Oregon's upcoming redistricting process, which takes place after the 2020 census. Oregon's legislature is responsible for drawing up new district lines and if they are unsuccessful, the Secretary of State assumes the duty. At this time, the Legislature is controlled by the Democratic Party and Republican Dennis Richardson is Secretary of State.

### **Oregon Land Title Association Session Summary**

Compared with previous sessions, the Oregon Land Title Association had a less active and stressful session in 2018. OLTA decided against bringing forward legislation this session and to remain neutral on the two measures it was asked to weigh in on.

HB 2007, which included the establishment of the first-time homebuyer savings accounts (FTHBSA) and an increase to the document recording fee, was highly controversial this session. Democrats did not want to create the first-time homebuyer savings accounts without a \$75 document recording fee. When they finally agreed to the account with a \$60 document recording fee, Republicans were not interested in accepting the higher fee. OLTA helped organize a group of lobbyist stakeholders before and during session to coordinate messaging and to gather opinions from traditional allies. The organized group included representation from the bankers, the credit unions, the mortgage brokers and the realtors. Consensus amongst the group proved difficult as no one, with the exception of the realtors, supported taking a firm stance on the legislation or the increased fee amount. Rep. Alissa Keny-Guyer (D-NE Portland) met with CFM and OLTA in an attempt to convince the organization to support the bill with a \$75 document recording fee. After careful consideration, OLTA decided to stay neutral and not find themselves crosswise with a powerful political figure or a traditional ally, the realtors, who were deep in additional negotiations. At the end, the realtors struck a deal with the leading Democrats on the issue, Rep. Alissa Keny-Guyer and Speaker Tina Kotek (D-N Portland), that led to its final passage.

Chief sponsor Rep. Julie Fahey (D-Eugene) worked with the Department of Justice (DOJ) to craft HB 4134, which intends to provide a better way to remove discriminatory language from covenants, conditions and restrictions ("CC&Rs"). At the end of 2017, DOJ reached out to OLTA to get its opinion of the bill. OLTA weighed in with many suggested changes, including strengthening ORS 93.270, in addition to ORS 93.272. DOJ and Rep. Fahey's office responded with the decision to not include OLTA's suggestions, believing there was not enough time to make the changes and pass the bill in the short session. The offer was made to work with OLTA in the interim and bring another related bill in 2019 to address



those concerns. OLTA decided to back off the 2018 bill and stay neutral, understanding the bill was extremely narrow in scope and unlikely to be used in the real world. During the interim, OLTA will need to discuss whether to bring back a new bill in 2019 to touch on these or other issues.

The “MERS” bill, SB 1556, did not pass this session, despite the bankers’ efforts to get it across the finish line. Paul Cosgrove with the Oregon Bankers Association reached out to the OLTA to get a better understanding of how the indexing worked. OLTA provided the requested information, but simply monitored the legislation, rather than becoming involved one way or another.

### **Interim Activities**

CFM recommends the following before the next session:

- Internal discussions to see if new legislation will be needed in the next long session.
- OLTA is still in the process of establishing its political action committee (PAC). Once OLTA has decided which treasurer to use and how much money it will have in the PAC for this election cycle (ending November 2018), CFM can assist with making recommendations for contributions.
- Checking in with champion legislators, including Rep. Paul Holvey (D-Eugene), and developing new legislative champions, with Rep. Esquivel (R-Medford) retiring this year, should be prioritized. Making contributions and setting up meetings with potential champions will help in continuing to build the network of legislators OLTA will be able to call on for assistance in legislative session to come.

CFM is interested in talking with the legislative committee soon to review the session and discuss any future actions.

### **OLTA Bill Summaries**

#### **[HB 4006B](#)**

**Summary:** Requires Housing and Community Services Department to annually provide to each city with population greater than 10,000 data showing percentage of renter households in city that are severely rent burdened. Requires city in which at least 25 percent of renter households



are severely rent burdened to complete survey related to affordability of housing within city and to hold public meeting to discuss issue. Requires each city with population greater than 10,000 to submit annual report to Department of Land Conservation and Development setting forth total number, within certain categories, of residential units permitted and produced in preceding calendar year. Appropriates moneys to Department of Land Conservation and Development for purpose of providing technical assistance to local governments in increasing affordability of housing, with priority to cities in which at least 25 percent of renter households are severely rent burdened. Appropriates moneys to Housing and Community Services Department for purpose of studying cost of affordable housing and providing technical assistance grants to promote development of subsidized affordable housing. Declares emergency, effective on passage.

**Outcome:** Legislative Counsel – Enrollment.

#### [HB 4007C](#)

**Summary:** Permits individual to create first-time home buyer savings account with financial institution to pay or reimburse account holder's eligible costs for first-time purchase of single family residence. Allows subtraction from account holder's federal taxable income of amounts contributed to first-time home buyer savings account during each tax year. Exempts from taxation amount of interest and other income earned on account. Establishes amount and time limitations on subtractions and exemptions from taxable income. Provides that withdrawals for purposes other than approved purposes are taxable income to account holder. Applies to tax years beginning on or after January 1, 2019, and before January 1, 2027. Increases fees charged and collected by county clerks to record or file certain real property documents and transferred to Housing and Community Services Department accounts for housing-related programs. Exempts county tax collectors from paying certain fees. Takes effect on 91st day following adjournment sine die.

**Outcome:** Legislative Counsel – Enrollment.

**Comment:** Bill to create the first-time homebuyer savings accounts (FTHBSA) and the increase of the document recording fee \$40, from \$20 to \$60 total. Twenty-five percent of the fees collected go to support Veteran's housing needs; the rest of the funds are divided by the following:

- 76% towards housing development of affordable rental units only



- 14% towards home ownership, providing down payment assistance
- 10% towards ending homelessness, money transferred to the emergency housing account

### [HB 4010A](#)

**Summary:** Establishes Task Force on Addressing Racial Disparities in Home Ownership. Directs task force to compile data concerning levels of home ownership among people of color in this state and identify barriers to home ownership. Requires task force to recommend solutions, including legislation, to modify practices or procedures for mortgage loan applications and approvals to eliminate any impermissible discrimination or barriers. Requires task force to report to Legislative Assembly by September 15, 2019. Sunsets December 31, 2019. Declares emergency, effective on passage.

**Outcome:** Legislative Counsel – Enrollment.

### [HB 4048B](#)

**Summary:** Requires principal real estate brokers to complete real estate continuing education courses before renewal or reactivation of license. Requires real estate brokers and real estate property managers to complete real estate continuing education courses before reactivation of license. Prohibits Housing and Community Services Department from requiring elderly housing project that has repaid financing received through department program, and retired bond obligations related to project, to hire licensed real estate property manager, real estate broker or principal real estate broker to perform property management duties with respect to project. Takes effect on 91st day following adjournment sine die. Declares emergency, effective on passage.

**Outcome:** Legislative Counsel – Enrollment.

### [HB 4056](#)

**Summary:** Distributes civil forfeiture proceeds to scholarship program for family members, children of deceased or disabled public safety officers. Modifies criteria for scholarship program. Applies to applications for scholarships submitted on or after July 1, 2018. Declares emergency, effective on passage.



**Outcome:** Senate President's Desk – Awaiting signature.

### [HB 4134](#)

**Summary:** Provides specific procedure for petitioning for removal of personally discriminatory restrictions from title of real property. Declares emergency, effective on passage.

**Outcome:** Governor's Office – Awaiting signature.

### [HB 4160](#)

**Summary:** Creates family and medical leave insurance program to provide employee who is eligible for coverage with portion of wages while employee is on family medical leave or military leave. Requires employer and employee contributions to fund program. Allows self-employed individuals to opt into program. Directs Director of Department of Consumer and Business Services to determine contribution amounts and weekly benefit amounts. Establishes Family and Medical Leave Insurance Fund. Amends Oregon family leave law to allow for leave after employee has been employed for 90 days with employer to match waiting period for benefits. Protects employee's position of employment with employer while employee is on leave. Prohibits employer from retaliating against employee who invokes program and from interfering with employee rights under program. Establishes right of employee for civil action for certain employer violations. Directs Department of Consumer and Business Services to administer collection and reporting requirements of contribution provisions. Requires director to work with other agencies and promulgate rules for administration of program. Establishes requirements for director to submit initial report to interim committees of Legislative Assembly no later than January 1, 2020, and to report on January 1 of every even-numbered year thereafter. Requires department to conduct study regarding implementation of program with regard to self-employed individuals who opt into program. Takes effect on 91st day following adjournment sine die.

**Outcome:** In committee upon adjournment.

### [SB 1556](#)

**Summary:** Prohibits county from bringing claim or action against person if claim or action is based on statement in trust deed that nominee or agent



of lender is grantee or beneficiary, based on county's recording or indexing instrument that states that nominee or agent of lender is grantee or beneficiary or based on person's having obtained or transferred interest in trust deed by means of instrument that was executed or delivered to person but was not recorded in county's deeds and mortgages records or in county's County Clerk Lien Record. Prohibits county clerk from charging or collecting fee for instrument that transfers interest in trust deed and that was executed and delivered to person but was not presented for recording. Applies to claims that arise before, on or after January 1, 2018, but does not apply to actions that commenced before January 1, 2018. Declares emergency, effective on passage.

**Outcome:** In committee upon adjournment.