

**Bills Passed by the 2009 Oregon State Legislature
With Effective Dates Earlier Than 1/1/10**

Although bills passed by the Oregon State Legislature normally have an effective date of January 1 of the following calendar year, several hundred bills were passed during this last session with an earlier effective date. Most of these “emergency” bills do not directly affect attorneys. However, some of the bills alter substantive law and may be of interest to practitioners in those areas.

Below is a nonexclusive list of substantive bills passed by the 2009 Legislature with an effective date earlier than January 1, 2010, grouped under several practice area headings. All attorneys are encouraged to read the descriptions of the bills in the General/Civil/Appellate category.

The descriptions of the bills are taken from the Senate and House Staff Measure Summaries of the Oregon State Legislature and are not intended as complete analyses of the bills. The Oregon State Bar and the Professional Liability Fund have not independently researched or verified the accuracy of the descriptions. This list of bills is provided as a courtesy; attorneys should use the list as a starting point for their research. To view the full text of a bill or a measure’s history, go to http://www.leg.state.or.us/bills_laws/, and click on 2009 Regular Session. You can search by specific measure number.

A more detailed discussion of some of the bills passed in this legislative session will follow in the special Legislation Alerts issue of *In Brief* published by the PLF in November.

To learn more about all of the new laws passed in 2009, consider attending the “Oregon Legislation Highlights CLE” on Friday, November 6, 2009, at the OSB Center. You can also purchase a copy of the *2009 Oregon Legislation Highlights* book – a comprehensive analysis of the legislation enacted in the 2009 session – later this fall. (The book is free to all CLE attendees.) For more information, contact the OSB Public Affairs Department directly at 503-431-6376.

Categories:[General/Civil/Appellate](#)[Business Law](#)[Consumer/Debtor-Creditor/Bankruptcy](#)[Employment Law](#)[Estate Administration](#)[Family/Juvenile/Elder Law](#)[Real Estate/Land Use/Landlord-Tenant](#)[Taxation](#)[Torts](#)

General/Civil/Appellate

SB 240 – limits use of Social Security and driver’s license numbers to the final four digits in judgment documents and liens and limits required information to birth year instead of birth date; limits use of Social Security numbers to the last four digits in writs of garnishment; provides for full disclosure of Social Security number to garnishee if needed to identify debtor; protects garnishee from liability for mistakes when relying on the last four digits of Social Security number; applies to documents recorded on or after effective date
Effective June 4, 2009

SB 262 – limits de novo review by the Oregon Court of Appeals; applies to appeals for which a notice of appeal is filed after the effective date
Effective June 4, 2009

SB 270 – allows Chief Justice to authorize courts to waive or suspend the court fee added on a judgment and authorizes recovery of more of the costs associated with collecting judgments; requires clerk of court to file a motion or response with the court only if the party filing the motion or response has paid the appropriate filing fee; allows a judge to waive sheriff’s fee for service of process if the judge finds that the party is unable to pay the fee; clarifies that a supplemental judgment may only contain provisions not included in the general judgment, with noted exceptions; specifies type of judgment that must be entered against a garnishee; requires court to enter a judgment rather than an order dismissing the accusatory instrument; clarifies that an appellate record in a juvenile dependency or delinquency case is confidential, but that the appellate court decision is not
Effective June 24, 2009

SB 356 – clarifies Oregon’s forfeiture laws and incorporates changes in these laws to reflect enactment of Ballot Measure 53; re-enacts Oregon’s forfeiture laws; redefines “forfeiture proceeds”
Effective April 28, 2009

SB 404 – repeals ORS 20.160 and 20.170, so that attorneys of nonresidents are no longer liable to defendant for cost awarded against their client
Effective June 18, 2009

SB 618 – Exempts military discharge records from public records disclosure; creates exception for county clerks for producing discharge papers to certain individuals who make request in accordance with specified procedure; allows clerks to impose additional procedures
Effective June 24, 2009

SB 745 – allows attorney fees for claims based on an express or implied contract regardless of whether the prevailing party was a party to the contract
Effective June 16, 2009

HB 2287 – extends the sunset on existing filing fee surcharges from June 30, 2009 to September 30, 2009; establishes temporary surcharges on a variety of filing fees; establishes several temporary fees and increases the amounts charged based on the

value claimed by a plaintiff in a civil case; all of the fees and surcharges are temporary and are effective October 1, 2009, through June 30, 2011

Effective June 30, 2009

HB 2303 – allows a soldier, sailor, marine, member of the Air Force, or member of the National Guard on active duty to notify a creditor or a person suing the service member that the service member is on active duty and protected by the Servicemember's Civil Relief Act (SCRA); allows the service member to obtain attorney fees and damages if the service member notifies a party at least 30 days prior to the commencement of legal action under this measure that the service member is protected by SCRA; allows the defendant to avoid attorney fees by remedying the violation before the commencement of a lawsuit; gives the defendant 30 days to remedy; makes the measure applicable to conduct that occurs after the effective date; exempts an action under this measure from court-ordered arbitration

Effective May 8, 2009

HB 2436 – adds a new \$15 fee to the existing fees pertaining to deeds and mortgage records filed with county clerks, with some exclusions for mining claims, warrants issued by the employment department, liens and judgment records, and warrants issued by the Department of Revenue

Effective September 28, 2009

HB 2502 – authorizes the seizure or production of documents in accordance with a subpoena or warrant, from a recipient outside Oregon, regardless of the location where the recipient receives service or where the records are physically located

Effective June 26, 2009

HB 3199 – authorizes the Chief Justice to establish fees for the use of the Oregon Judicial Information Network and allows the Chief Justice by temporary order to establish exemptions from certain fees established by HB 2287 when the exemption is needed to ensure the equitable imposition of such fees

Effective August 4, 2009

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Business Law

SB 636 – updates Oregon law related to trademarks, service marks, and trade names; brings Oregon statutes in line with federal law and 2007 revisions to the Model State Trademark Bill

Effective June 23, 2009

HB 2086 – permits the Secretary of State to waive requirement that dissolved nonprofit corporation apply for reinstatement within five years after dissolution if corporation requests waiver and shows good cause for failure to apply for reinstatement within the time limit

Effective June 18, 2009

HB 2312 – adopts consistent definitions of foreign business entities to ensure they include American Indian tribes

Effective March 12, 2009

HB 2585 – repeals the prohibition on class actions for unlawful trade practices, Truth in Lending Act, and similar lawsuits; applies retroactively unless a judgment was entered before the date of enactment

Effective June 25, 2009

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Consumer/Debtor-Creditor/Bankruptcy

SB 239 – requires trustees to record affidavits of mailing and service given to grantors required in a foreclosure; adds a 60-day time limit for grantor to assert that notice was not given

Effective June 4, 2009

SB 240 – limits use of Social Security and driver's license numbers to the final four digits in judgment documents and liens and limits required information to birth year instead of birth date; limits use of Social Security numbers to the last four digits in writs of garnishment; provides for full disclosure of Social Security number to garnishee if needed to identify debtor; protects garnishee from liability for mistakes when relying on the last four digits of Social Security number; applies to documents recorded on or after effective date

Effective June 4, 2009

SB 241 – makes the residential FED (forcible entry and detainer action) process available for purchasers to take possession of property in certain judicial foreclosures, sales and similar events; clarifies that those FED proceedings will be subject to the same fees and process as are FED proceedings under the Oregon Residential Landlord Tenant Act

Effective June 30, 2009

SB 270 – allows Chief Justice to authorize courts to waive or suspend the court fee added on a judgment and authorizes recovery of more of the costs associated with collecting judgments; requires clerk of court to file a motion or response with the court only if the party filing the motion or response has paid the appropriate filing fee; allows a judge to waive sheriff's fee for service of process if the judge finds that the party is unable to pay the fee; clarifies that a supplemental judgment may only contain provisions not included in the general judgment, with noted exceptions; specifies type of judgment that must be entered against a garnishee; requires court to enter a judgment rather than an order dismissing the accusatory instrument; clarifies that an appellate record in a juvenile dependency or delinquency case is confidential, but that the appellate court decision is not

Effective June 24, 2009

SB 515 – extends time period available for consumer remedy for vehicle that does not conform to manufacturer's warranty; grants manufacturer, agent, or dealer certain specified attempts to correct or repair nonconformity; makes decision resulting from informal dispute settlement binding on manufacturer but not consumer; allows awards of attorney fees under certain conditions; recognizes certain affirmative defenses; requires

disclosure of manufacturer buyback of nonconforming vehicle in future, lease, or transfer; makes failure to disclose an unlawful trade practice

Effective June 23, 2009

SB 628 – revises notice required to be delivered to grantor on notice of default on residential trust deed; specifies that notice include information pertaining to loan modification procedures; requires delivery of mortgage modification request form to grantor; specifies contents of modification request form; requires beneficiary to evaluate information timely provided by grantor, process modification request form in good faith, and respond to grantor within 45 days of receipt; prohibits foreclosure sale until after response to grantor’s modification request; outlines procedures if grantor timely requests meeting with beneficiary; requires that beneficiary or agent meeting with grantor have authority to modify loan; requires affidavit describing compliance with procedures; exempts mortgages that beneficiary, in good faith, determines ineligible for loan modification; establishes that measure does not apply to property secured by trust deed that government agency holds for loan funded through government program

Effective July 30, 2009

HB 2189 – authorizes Oregon’s participation in the Nationwide Mortgage Licensing System and Registry (NMLSR) under the Department of Consumer and Business Services; requires DCBS to adopt rules necessary to conform to the requirements of the Safe and Fair Enforcement Mortgage Licensing Act provisions of the federal Housing and Economic Recovery Act of 2008; among other things, requires loan originators to be licensed through NMLSR; requires mortgage bankers, mortgage brokers and other persons who employ loan originators to maintain bond or letter of credit covering lending activities of loan originators and to retain records of loan originators; applies current, private right of action for mortgage brokers and mortgage bankers to all other employers of licensed loan originators

Effective July 30, 2009

HB 2191 – requires debt management service providers (as defined) to register with the Department of Consumer and Business Services (with certain exemptions), maintain bond, and keep certain records; specifies that consumer funds must be held in trust accounts; requires written contract and specifies contract provisions, disclosures, and rights of cancellation for provider and consumer; specifies provider fee structure, requires fee disclosures, and defines fee maximum; prohibits misrepresentation, misleading advertising, and entering into debt management contract without evaluating benefit to consumer; increases civil penalty for certain violations; clarifies statute of limitations for enforcement action; provides aware of attorney fees to prevailing party; provides consumer right of action against bond; makes certain violations unlawful trade practices; specifies that provisions apply to contracts entered into on or after effective date

Effective June 26, 2009

HB 2303 – allows a soldier, sailor, marine, member of the Air Force, or member of the National Guard on active duty to notify a creditor or a person suing the service member that the service member is on active duty and protected by the Servicemember’s Civil Relief Act (SCRA); allows the service member to obtain attorney fees and damages if the service member notifies a party at least 30 days prior to the commencement of legal action under this measure that the service member is protected by SCRA; allows the defendant

to avoid attorney fees by remedying the violation before the commencement of a lawsuit; gives the defendant 30 days to remedy; makes the measure applicable to conduct that occurs after the effective date; exempts an action under this measure from court-ordered arbitration

Effective May 8, 2009

HB 2306 – increases amount for vehicle and homestead exemption in bankruptcy proceedings; adds floating and manufactured homes to exemption

Effective June 26, 2009

HB 2585 – repeals the prohibition on class actions for unlawful trade practices, Truth in Lending Act, and similar lawsuits; applies retroactively unless a judgment was entered before the date of enactment

Effective June 25, 2009

HB 3004 – provides that foreclosure and sale by trustee of residential property prohibits further action for a deficiency against mortgagor, grantor, or other specified obligor on any additional trust deed for the property; provides exceptions including circumstances when one of the trust deeds is sold to a third party; expands debt protection to include action against homeowner for debt owed to beneficiary in the residential trust deed that was subject to foreclosure that was incurred to secure the residential trust deed, and other debt incurred to finance a portion of the purchase price of the foreclosed property; clarifies circumstances in which judgment remedies for collection expire when property is sold at foreclosure; requires trustee to provide amended notice of sale upon registered or certified request by any member of the Oregon Bar Association

Effective August 4, 2009

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Employment Law

HB 2744 – requires employers of 25 or more persons, during a period of military conflict, to provide up to 14 days unpaid leave to an employee who is a spouse of a member of the armed forces, national guard, or military reserve, prior to the member being deployed or redeployed to active duty; makes failure to grant leave or discriminating against spouse an unlawful employment practice

Effective June 25, 2009

HB 3483 – declares that economically distressed workers may not be denied unemployment insurance benefits for attending training or for refusing work offered that interferes with worker training and pays less than 110 percent of minimum wage; allows individuals to receive Oregon emergency benefits once they have exhausted regular benefits and are not eligible for any other unemployment benefits, provided they continue to meet other eligibility requirements

Effective July 28, 2009

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Estate Administration

SB 403 – allows beneficiaries to a wrongful death action to agree to distribution of damages rather than requiring distribution through intestate succession
Effective March 31, 2009

HB 2009 – comprehensive bill relating to health care; contains amendments to the Probate Code; among other things, requires the personal representative, within 30 days of appointment, to mail a copy of the information sent to devisees, heirs, and other interested person and a copy of the death certificate to the Oregon Health Authority; requires a small estate affidavit filed under ORS 114.525 to state that a copy of the affidavit will be mailed to the Oregon Health Authority
Effective June 26, 2009

HB 2308 – allows a trustee, personal representative, or executor to apply to the Oregon Department of Revenue for a determination of the amount of inheritance tax owed; allows for a discharge from further tax liability to be issued following payment
Effective September 28, 2009

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Family/Juvenile/Elder Law

SB 512 – requires notice of certain offenses to school administrator or superintendent of school district for youth within jurisdiction of juvenile court; specifies contents of notice; requires that documents or information relating to petition that is set aside or dismissed be removed and destroyed
Effective June 23, 2009

HB 2137 – allows Department of Human Service to petition courts for protective orders and share information regarding health, mental health, financial, substantiated abuse and legal information of elderly or disabled individuals with court in protective proceedings; allows disclosure by department if made in good faith and is reasonably necessary to prevent or lessen a serious and imminent threat to the health and safety of the person subject to the protective order; requires confidential information to be sealed by the court and to be available only to the parties to the proceedings and their attorneys; clarifies that application of ORCP and the evidence code related to protective proceedings is not affected by the bill
Effective June 24, 2009

HB 2275 – clarifies that a person eligible for and receiving Title IV-A Social Security benefits is presumed not able to pay child support; allows a person seeking relief from an out-of-state support enforcement order to challenge the order in the originating state or in Oregon in the same manner that an Oregon order could be challenged; clarifies that a court may give a dollar-for-dollar credit against child support arrearages for any Social Security or Veterans' benefits paid for arrearages, not just lump sum payments; establishes that past support arrears owed at the time of application for Temporary Assistance to Needy Families are not required to be assigned to the state; allows the AG to declare a "period of significant unemployment" and allows the Support Enforcement

Division during a period of significant unemployment to suspend or modify a support enforcement order for six months

Effective May 5, 2009

HB 2839 – amends Oregon’s domestic partnership laws; among other things, allows taxpayers to subtract from their federal taxable income any health insurance benefits paid by employer for taxpayer’s domestic partner, for the 2008 year, where eligible

Effective September 28, 2009

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Real Estate/Land Use/Landlord-Tenant

SB 58 – exempts disabled tenants from requirement to restore interior of dwelling to pre-modification condition if landlord did not condition modification on restoration of dwelling to pre-modification condition; makes Oregon law substantially similar to federal law

Effective May 21, 2009

SB 59 – allows interveners to recover costs and reasonable attorney fees in administrative hearings involving housing discrimination; makes Oregon substantially similar to federal law

Effective July 1, 2009

SB 239 – requires trustees to record affidavits of mailing and service given to grantors required in a foreclosure; adds a 60-day time limit for grantor to assert that notice was not given

Effective June 4, 2009

SB 241 – makes the residential FED (forcible entry and detainer action) process available for purchasers to take possession of property in certain judicial foreclosures, sales and similar events; clarifies that those FED proceedings will be subject to the same fees and process as are FED proceedings under the Oregon Residential Landlord Tenant Act

Effective June 30, 2009

SB 628 – revises notice required to be delivered to grantor on notice of default on residential trust deed; specifies that notice include information pertaining to loan modification procedures; requires delivery of mortgage modification request form to grantor; specifies contents of modification request form; requires beneficiary to evaluate information timely provided by grantor, process modification request form in good faith, and respond to grantor within 45 days of receipt; prohibits foreclosure sale until after response to grantor’s modification request; outlines procedures if grantor timely requests meeting with beneficiary; requires that beneficiary or agent meeting with grantor have authority to modify loan; requires affidavit describing compliance with procedures; exempts mortgages that beneficiary, in good faith, determines ineligible for loan modification; establishes that measure does not apply to property secured by trust deed that government agency holds for loan funded through government program

Effective July 30, 2009

SB 952 – strengthens the rights of tenants living in property subject to foreclosure sale; requires that tenants in good standing receive advance notice of foreclosure proceedings with specific information regarding tenants’ rights; includes other provisions affecting tenants’ rights

Effective August 23, 2009

HB 2189 – authorizes Oregon’s participation in the Nationwide Mortgage Licensing System and Registry (NMLSR) under the Department of Consumer and Business Services; requires DCBS to adopt rules necessary to conform to the requirements of the Safe and Fair Enforcement Mortgage Licensing Act provisions of the federal Housing and Economic Recovery Act of 2008; among other things, requires loan originators to be licensed through NMLSR; requires mortgage bankers, mortgage brokers and other persons who employ loan originators to maintain bond or letter of credit covering lending activities of loan originators and to retain records of loan originators; applies current, private right of action for mortgage brokers and mortgage bankers to all other employers of licensed loan originators

Effective July 30, 2009

HB 2436 – adds a new \$15 fee to the existing fees pertaining to deeds and mortgage records filed with county clerks, with some exclusions for mining claims, warrants issued by the employment department, liens and judgment records, and warrants issued by the Department of Revenue

Effective September 28, 2009

HB 2481 – prohibits conveyance or agreement for transfer of real property that imposes fees or other consideration upon actual or purported future transfer of the property (with certain exceptions)

Effective June 17, 2009

HB 3004 – provides that foreclosure and sale by trustee of residential property prohibits further action for a deficiency against mortgagor, grantor, or other specified obligor on any additional trust deed for the property; provides exceptions including circumstances when one of the trust deeds is sold to a third party; expands debt protection to include action against homeowner for debt owed to beneficiary in the residential trust deed that was subject to foreclosure that was incurred to secure the residential trust deed, and other debt incurred to finance a portion of the purchase price of the foreclosed property; clarifies circumstances in which judgment remedies for collection expire when property is sold at foreclosure; requires trustee to provide amended notice of sale upon registered or certified request by any member of the Oregon Bar Association

Effective August 4, 2009

HB 3225 – provides process for a number (approximately 500) of Measure 49 claims to proceed that would otherwise be precluded (claims not previously determined based on merit); sets \$175 processing fee; sets deadline for issuance of final orders by the Department of Land Conservation and Development (DLCD); directs DLCD to investigate claims processing; allows DLCD to advance hardship cases; allows DLCD to use existing county records

Effective July 28, 2009

HB 3450 – prohibits title transfer of single family dwelling or multi-family housing containing carbon monoxide source – defined as (a) a heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood, or other fuels that emit carbon monoxide as a by-product of combustion; or (b) an attached garage with an opening that communicates directly with a living space – unless there are properly functioning carbon monoxide detectors at locations that provide carbon monoxide detection for all sleeping areas; allows for civil action to recover damages, attorney fees, and costs for violations

Effective June 25, 2009

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Taxation

SB 395 – allows counties to serve notice of required personal property tax delinquency warrants by means of one publication in a newspaper of general circulation in the county and by first-class mail to persons named in the notice, replacing a method of notice that uses four consecutive weekly publications

Effective September 28, 2009

SB 498 – prohibits the Department of Revenue from applying an administrative rule that would change any particular of a tax return or report (such as income, expense, deduction, or credit) if the return or report was timely filed and the particulars were treated consistent with administrative rules in effect at that time; applies to administrative rules amended or adopted on or after the effective date

Effective September 28, 2009

SB 609 – allows for decisions of the magistrate involving protective orders to be appealed to the regular division of the tax court and allows the magistrate to stay the case on the merits until the request for the protective order is resolved

Effective September 28, 2009

SB 690 – allows Department of Revenue to disclose taxpayer information to local law enforcement agencies under certain circumstances; clarifies that the Oregon Tax Court may impose a penalty in cases of frivolous arguments; allows the department to report to consumer reporting agencies certain information regarding delinquent taxpayers (those who have refused or neglected to pay any tax and have not filed an appeal with the Oregon Tax Court) and provide advance notice to those taxpayers

Effective September 28, 2009

SB 880 – establishes a general amnesty program for personal, corporate, and inheritance taxpayers between October 1, 2009, and November 19, 2009; limits participation to tax years for which taxpayer was not issued a notice of deficiency or assessed a tax; waives penalties and 50% of interest otherwise due for those who participate in the program; imposes 25% post-amnesty penalty for those eligible who do not participate

Effective September 28, 2009

HB 2157 – updates Oregon's date of connection to certain federal tax laws to December 31, 2008; provides a mechanism for a taxpayer to have interest or penalties canceled for

tax deficiencies that are attributable to the federal law connection changes in this Act; clarifies that taxpayers must file an amended return for changes in Oregon's law due to these federal tax law changes for tax years before January 1, 2010

Effective September 28, 2009

HB 2308 – allows a trustee, personal representative, or executor to apply to the Oregon Department of Revenue for a determination of the amount of inheritance tax owed; allows for a discharge from further tax liability to be issued following payment

Effective September 28, 2009

HB 2839 – amends Oregon's domestic partnership laws; among other things, allows taxpayers to subtract from their federal taxable income any health insurance benefits paid by employer for taxpayer's domestic partner, for the 2008 year, where eligible

Effective September 28, 2009

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Torts

SB 311 – increases the per-claim damage limits and the per-occurrence damage limits recoverable under the Oregon Tort Claims Act; increases all property damage limits and begins escalator for property damage in 2010; removes the distinction between economic and noneconomic damages; allows direct appeal to the Oregon Supreme Court for challenges to the constitutionality of the damage limits; applies to causes of action from December 28, 2007

Effective July 1, 2009

SB 403 – allows beneficiaries to a wrongful death action to agree to distribution of damages rather than requiring distribution through intestate succession

Effective March 31, 2009

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