

# BUSINESS AND CONSUMER PROTECTION



## BUSINESS ASSISTANCE

The Legislative Assembly passed measures to focus business assistance and incentive programs on inclusivity. [House Bill 2266](#) creates two new programs that provide funding through Business Oregon to assist specified businesses: \$10 million for an award program to lending institutions for increasing lending to business owners who lack access to capital to start or grow their business, and \$10 million for a loan program to eligible businesses that are certified by the Certification Office for Business Inclusion and Diversity. [House Bill 3010](#) provides additional requirements for qualifying production companies to receive cash rebates through the Oregon Production Investment Fund (OPIF), including that the companies must have a written policy for diversity, equity, and inclusion, and must make a good faith effort to hire individuals from underrepresented groups. The OPIF offers qualifying film or television productions a 20 percent cash rebate on production-related goods and services paid to Oregon vendors and a 10 percent cash rebate of pay-rolled wages paid for work done in Oregon including both Oregon and non-Oregon residents.

## COVID-19

Responses to the COVID-19 pandemic in 2020 included widespread closure of businesses, the imposition of capacity limits, and prohibitions on the on-premises consumption of food and drink. The ongoing impact of the pandemic on businesses drew the attention of the Legislative Assembly in 2021.

The Legislative Assembly extended both commercial and residential rent relief provided during the 2020 First Special Session by [House Bill 4213](#). [House Bill 2966](#) extended the grace period that was set to end on March 31, 2021 to September 30, 2021 for the repayment of any unpaid commercial rent that accrued during the declared emergency period in 2020.

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See the **2021 Legislative Summary Report** for [Business and Consumer Protection](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

With enactment of [House Bill 2009 \(HB 2009\)](#), homeowners were given an extension of the foreclosure moratorium and payment deferral protections that were provided in [House Bill 4204](#) enacted during the 2020 First Special Session. However, HB 2009 limited the protections to those who own five or fewer residential properties, with each property including no more than four residential dwellings. To receive the protections, homeowners must have notified their lender that they had lost income due to the COVID-19 pandemic. The emergency period for the extension initially ran from December 30, 2020, through June 30, 2021, with authority for the Governor to extend it twice in three-month increments. Governor Brown did extend the temporary protections twice, setting the final expiration date as December 31, 2021. The measure also lowered the threshold at which lenders are exempt from participating in the Foreclosure Avoidance Program. Prior to enactment of HB 2009, lenders who commenced fewer than 175 foreclosures in the prior year were exempt from participation. The

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threshold in 2021 and 2022 is now 30 foreclosures commenced in 2019; in 2023 and subsequent years, the threshold will be 30 foreclosures commenced in the prior year.

The Governor's authority to impose restrictions on eating and drinking establishments and indoor physical recreation and fitness establishments would have been limited by [House Bill 3177](#) (*not enacted*).

### CONSUMER PROTECTION

Legislators considered several measures aimed at creating or strengthening consumer protections during the 2021 session. [Senate Bill 485](#) establishes licensure requirements through the Department of Consumer and Business Services (DCBS) for student loan servicers operating in Oregon. Beginning July 1, 2022, the measure creates duties and minimum service requirements for licensees, requires DCBS to establish an ombudsman to receive, review, and attempt to resolve borrower complaints, and grants DCBS broad authority to address violations, including denial or revocation of a license or the assessment of civil penalties.

The Legislative Assembly passed [House Bill 2646](#) (*vetoed*) which would have limited the sale of kratom products to individuals at least 21 years of age. The measure would have required all kratom products be registered with the Oregon Department of Agriculture and prohibited the sale of unregistered products. Governor Brown vetoed the measure, stating in a press release that she was concerned about the lack of an FDA-approved use for kratom products and that she "would entertain further legislation to limit youth access without the state agency regulatory function included in this bill."

"Right to Repair" consumer protections were contained in [House Bill 2698](#) (*not enacted*) (HB 2698). When certain home electronics break or malfunction, the consumer may face the choice of replacing it or paying for the repair services of a business authorized by the original manufacturer to make the repair. Attempting to repair the product at home or through a service not authorized by the original manufacturer may void the warranty, and the tools and instructions necessary to make the repair may not be available.

HB 2698 would have required original equipment manufacturers of consumer electronic equipment to make available to consumers and independent repair shops, at reasonable terms, access to the tools, parts, software, diagrams, and manuals needed to make repairs. The measure would have provided a private right of action, including class action, against original equipment manufacturers who failed to comply.

Oregon's Unlawful Trade Practices Act (UTPA) provides individuals with the right to sue for deceptive practices regarding the sale of real estate, goods, and services. Additional recovery powers are given to the Attorney General and district attorneys. The UTPA applies only to consumer purchases that are for the primary purpose of personal, family, or household use. In addition, the UTPA does not apply to insurance-related matters. [House Bill 3171](#) (*not enacted*) would have brought unfair insurance claims settlement practices under the UTPA. The measure would have allowed a prosecuting attorney to take action for violations of the UTPA only if the Director of DCBS first requested such action be taken.

Automobile insurance underwriters take into account information such as the applicant's age, vehicle, driving record, prior insurance coverage, credit history, and area of residence when preparing an insurance score used to help them decide whether to underwrite a policy and what premium to charge. Use of an applicant's or insured person's credit history is limited to specific circumstances. [House Bill 2043](#) (*not enacted*) would have limited the information motor vehicle liability insurers could use for setting rates to include only: safe driving history, miles driven, driving experience, and other information specified in rule. The measure would have prohibited the use of the following information when setting insurance rates: credit history, sex or gender, marital status, accidents in which applicant was not at fault, education, occupation, employment status, residential status, non-licensed household members, claims for personal injury protection benefits if applicant did not operate the vehicle, criminal history unless information was requested in the initial application, and certain license suspensions based on a nondriving offense.

Oregon law currently prohibits three provisions in life insurance policies. A life insurance policy may not:

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shorten the time in which an action may be brought to less than three years; take effect or purport to be issued more than six months before the original application for insurance was made; or forfeit the policy for failure to repay a loan on the policy when the total indebtedness is less than the loan value. [Senate Bill 45](#) adds an additional exclusion by prohibiting a life insurance policy from excluding coverage for loss of life that results from another person's act of terrorism.

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### ECONOMIC DEVELOPMENT

To assist with economic development, the Legislative Assembly created programs aimed at specific areas in the state. [House Bill 2345](#) establishes the Oregon Rural Capacity Fund and requires the Oregon Business Develop Department to distribute funds to assist rural jurisdictions learn about, apply for, and manage funding opportunities that support workforce, infrastructure, economic development, and community development. [House Bill 2518](#) aims to facilitate the cleanup and development of areas burdened by contamination by establishing a forgivable loan program to reimburse certain costs incurred by a property owner related to the remediation of brownfields. Brownfields are defined by state and federal law and describe real property where expansion or development is complicated by the actual, potential, or perceived threat of environmental contamination.

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### FINANCE

[House Bill 2743](#) (*not enacted*) would have allowed municipalities to establish a municipal bank through the adoption of an ordinance or resolution. The local government would have been prohibited from becoming a stockholder in, or loan its credit to or in aid of, a municipal bank. The municipal bank would not be required to obtain deposit insurance from the Federal Deposit Insurance Corporation.

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### INSURANCE

[House Bill 2377](#) provides a process to claim the insurance assets held by or on behalf of a dissolved

corporation or limited liability company. Informed by the cleanup efforts at the Portland Harbor Superfund Site, the measure is intended to provide access to the insurance assets of entities that statutorily dissolved but were partly responsible for the pollution of a site so that remediation of the site can occur more quickly.

The personal injury protection (PIP) benefits of a motor vehicle liability policy provide payment for certain expenses, loss of income, and loss of essential services to the insured person, members of the person's family or household, passengers in the insured's vehicle, and pedestrians struck by the insured's motor vehicle. PIP benefits are required as part of the motor vehicle liability policy for private passenger motor vehicle policies; however, such requirements do not apply to vehicles used for "public or livery conveyance." [House Bill 2393](#) requires taxi companies and transportation network companies (e.g., Uber and Lyft) to provide a motor vehicle liability policy with PIP benefits to each driver who operates a taxi or personal motor vehicle in affiliation with the company and specifies that the coverage applies to the driver, any passengers, and any pedestrians struck by the vehicle or taxi.

The September 2020 wildfires destroyed more than 4,000 homes across eight counties, as reported by *The Oregonian*. Despite having insurance coverage, some homeowners found that they had purchased coverage that was insufficient or that required rebuilding on the same property and within a one-year timeframe. At least 28 insurers agreed to allow policyholders at least two years to rebuild or replace damaged property. [House Bill 3272](#) requires insurers to provide a minimum of 24 months of additional living expenses, subject to policy limits, and time to repair, rebuild, or replace property if the property is in a location that was subject to a declared state of emergency. The measure requires an additional 12 months if the policyholder encounters unavoidable delays and prohibits an insurer from denying or limiting payment if the policyholder rebuilds in a new location or purchases an existing structure when the insured structure was a total loss. Though the provisions will not help those who suffered losses during the September 2020 wildfires, they will apply to policies issued or renewed on or after June 11, 2021.

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### REAL ESTATE

The Legislative Assembly passed several measures related to fair housing law implementation. In real estate property transactions, [House Bill 2550](#) requires a seller's agent to reject non-customary communications (e.g., love letters), specifically those that reveal personal information about the prospective buyer. The measure seeks to avoid the potential for unlawful selection of a buyer based on race, color, religion, sex, sexual orientation, national origin, marital status, or familial status.

Two measures passed in the session that add education requirements for licenses involved in real estate transactions. [House Bill 2703](#) requires real estate licensees to complete at least three hours of real estate education on state and federal fair housing laws prior to renewing or reactivating a license. [House Bill 2007](#) expands continuing education requirements for mortgage loan originators to include information on implicit bias and racial bias.

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### GENERAL BUSINESS POLICY AND LICENSING

The Legislative Assembly considered establishing membership requirements for directors on the board of publicly traded corporations located in Oregon. [House Bill 3110 A](#) (*not enacted*) would have required the boards of publicly traded Oregon companies to have at least one female director and one director who is a member of an underrepresented community by January 1, 2024.

Entering into a franchise agreement is a common path to becoming a small business owner. While franchisors must make certain required disclosures to potential franchisees, current Oregon law does not otherwise regulate small business franchise agreements. This contrasts with areas such as motor vehicles, motor fuels, and recreational vehicles where statutory requirements address issues such as successor and transfer rights, rights upon termination or cancellation, and prohibited franchise conditions. [House Bill 2946](#) (*not enacted*) would have provided many similar conditions on all other types of franchise agreements to protect the investment made by the small business franchisees.

Oregon statutes generally sanction the disposition of human remains either through cremation or leaving the body whole for burial or entombment. Hydrolysis uses water, pressure, an alkaline agent, and relatively lower heat than cremation to reduce the human remains to bone fragments and essential elements. Natural organic reduction uses straw, wood chips, and other natural materials to convert the human remains to soil. [House Bill 2574](#) clarifies that disposition of remains may also occur through alternative authorized processes such as hydrolysis, natural organic reduction, and any other process approved by the Oregon Mortuary and Cemetery Board. The measure requires practitioners to obtain a certificate of authority from the Board to operate an alternative disposition facility.

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### UTILITIES

The Legislative Assembly considered multiple measures to encourage broadband access and affordability in the state. [House Bill 2411](#) allows telecommunications providers to coordinate with the Oregon Department of Transportation for the installation of broadband within specified Statewide Transportation Improvement projects. [House Bill 2654](#) provides a process by which an electric cooperative may use or allow for use certain existing electric easements by broadband service providers for broadband services.

Broadband bill payment assistance of up to \$16.25 per month is currently available to low-income Oregon households through a joint state and federal program administered by the Oregon Public Utility Commission. The Legislative Assembly considered establishing a Low Income Broadband Bill Payment Assistance Fund to provide additional broadband bill payment assistance to low income households in [Senate Bill 615](#) (*not enacted*).

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