

Enrolled
House Bill 2188

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of Consumer and Business Services)

CHAPTER

AN ACT

Relating to mortgage transactions.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 and 3 of this 2009 Act are added to and made a part of ORS 59.840 to 59.980.

SECTION 2. (1)(a) As used in this section, “negative amortization loan” means a mortgage loan or mortgage banking loan that is structured in such a way that a borrower in any period may make a scheduled loan payment that is insufficient to pay accruing interest.

(b) “Negative amortization loan” does not include:

(A) A loan commonly known as a bridge loan, the terms of which specify that:

(i) The maturity period for the loan is less than 18 months; and

(ii) The borrower may pay only interest until a time when the entire unpaid loan balance is due and payable.

(B) A mortgage loan in which:

(i) The principal amount is not more than \$50,000; and

(ii) The combined loan to value ratio between all mortgage loans that are secured by the same property and the value of the securing property is not more than 50 percent.

(C) A loan commonly known as a reverse mortgage, the terms of which specify that the loan:

(i) Is a non-recourse loan secured by real property;

(ii) Provides cash advances to the borrower based on the equity or value in the borrower’s owner-occupied principal residence;

(iii) Requires no payment of principal or interest until the entire loan becomes due and payable; and

(iv) Is made by a mortgage lender licensed in this state or licensed under the laws of the United States.

(D) A loan commonly known as a home equity line of credit, in which:

(i) The amounts borrowed and the interest and other charges are debited to an account that is secured by an interest in real estate;

(ii) Interest on the account is computed periodically;

(iii) The borrower has the right to pay in full at any time without penalty or to pay in installments that are specified in the loan agreement; and

(iv) The lender agrees to permit a borrower from time to time to borrow money, with the maximum limit on the amount of each borrowing established by the loan agreement.

(2) A mortgage banker, mortgage broker or loan originator may not negotiate or make, or offer to negotiate or make, a negative amortization loan without regard to the borrower's repayment ability at the time the loan is made, including the borrower's current and reasonably expected income, employment, assets other than the collateral, current obligations and mortgage related obligations. The mortgage banker, mortgage broker or loan originator shall verify the income and assets of the borrower that will be relied on to evaluate the borrower's repayment ability. The borrower's repayment ability must be evaluated and the borrower's income and assets must be verified in a manner that is consistent with the requirements of 12 C.F.R. 226.34, as promulgated on the effective date of this 2009 Act.

(3) A negative amortization loan may not contain a prepayment penalty beyond the first 24 months after the date on which the loan is made.

(4) A creditor may not collect a prepayment penalty on an existing negative amortization loan in return for or as a consequence of refinancing or providing funds to refinance the negative amortization loan.

SECTION 3. (1) A mortgage banker, a mortgage broker or a loan originator shall provide in writing the materials identified in subsection (2) of this section to a borrower if the mortgage banker, mortgage broker or loan originator:

(a) Communicates or causes to be communicated an advertisement in a language other than English or otherwise solicits business in a language other than English; and

(b) Offers to negotiate or make, or negotiates or makes, a residential mortgage transaction in the course of which a substantial portion of the communication with the borrower that is related to the transaction takes place in the language other than English that was used to communicate the advertisement or make the solicitation.

(2) A mortgage banker, mortgage broker or loan originator that takes an action described in subsection (1) of this section shall provide the following materials to the borrower in English and in the language other than English in which a substantial portion of the communication that is related to the transaction takes place:

(a) A good faith estimate required under the Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., and under Regulation X, 24 C.F.R. part 3500, as enacted or promulgated on January 1, 2010;

(b) The disclosures related to the transaction that are required under the Truth in Lending Act, 15 U.S.C. 1601 et seq., and under Regulation Z, 12 C.F.R. part 226, as enacted or promulgated on the effective date of this 2009 Act; and

(c) A statement notifying the borrower that loan documents associated with the transaction will be in English and advising the borrower to obtain appropriate assistance with any necessary translations.

(3) The Director of the Department of Consumer and Business Services shall develop and distribute translated versions of the materials identified in subsection (2) of this section in the three languages other than English that are most commonly spoken in this state.

SECTION 4. Sections 2 and 3 of this 2009 Act apply to transactions that occur on or after the effective date of this 2009 Act.

Passed by House April 1, 2009

Repassed by House June 9, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate June 3, 2009

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President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State