

**HOUSE AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2189  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

By JOINT COMMITTEE ON WAYS AND MEANS

June 22

1 On page 1 of the printed A-engrossed bill, line 4, after “446.741,” insert “697.612,” and after  
2 “725.230” insert “and sections 2 and 3, chapter \_\_\_, Oregon Laws 2009 (Enrolled House Bill 2188)”.

3 On page 4, after line 5, insert:

4 “(4)(a) Except as provided in paragraph (b) of this subsection, an employee of a dealer, as de-  
5 fined in ORS 446.003, is not subject to the provisions of sections 1 to 13 of this 2009 Act if the em-  
6 ployee:

7 “(A) Performs only administrative or clerical tasks; and

8 “(B) Receives in connection with a sale or other transaction related to a manufactured struc-  
9 ture, as defined in ORS 446.003, only a salary or commission that is customary among dealers and  
10 employees of dealers.

11 “(b) An employee of a dealer is subject to the provisions of sections 1 to 13 of this 2009 Act if  
12 the United States Department of Housing and Urban Development in a guideline, rule, regulation  
13 or interpretive letter determines that the exemption granted in paragraph (a) of this subsection is  
14 inconsistent with requirements set forth in 12 U.S.C. 5101 et seq.”.

15 On page 25, line 45, delete “Violation of” and insert “A person that knowingly violates”.

16 On page 26, line 2, delete “, is” and insert “, commits”.

17 On page 32, after line 30, insert:

18 “**SECTION 38.** If House Bill 2188 becomes law, section 2, chapter \_\_\_, Oregon Laws 2009 (En-  
19 rolled House Bill 2188), is amended to read:

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

23 “(b) ‘Negative amortization loan’ does not include:

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

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

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

28 “(B) A mortgage loan in which:

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

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

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

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

34 “(ii) Provides cash advances to the borrower based on the equity or value in the borrower’s

1 owner-occupied principal residence;

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

3 and

4 “(iv) Is made by a mortgage lender licensed in this state or licensed under the laws of the

5 United States.

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

7 “(i) The amounts borrowed and the interest and other charges are debited to an account that

8 is secured by an interest in real estate;

9 “(ii) Interest on the account is computed periodically;

10 “(iii) The borrower has the right to pay in full at any time without penalty or to pay in in-

11 stallments that are specified in the loan agreement; and

12 “(iv) The lender agrees to permit a borrower from time to time to borrow money, with the

13 maximum limit on the amount of each borrowing established by the loan agreement.

14 “(2) A mortgage banker, mortgage broker or **mortgage** loan originator may not negotiate or

15 make, or offer to negotiate or make, a negative amortization loan without regard to the borrower’s

16 repayment ability at the time the loan is made, including the borrower’s current and reasonably

17 expected income, employment, assets other than the collateral, current obligations and mortgage

18 related obligations. The mortgage banker, mortgage broker or **mortgage** loan originator shall verify

19 the income and assets of the borrower that will be relied on to evaluate the borrower’s repayment

20 ability. The borrower’s repayment ability must be evaluated and the borrower’s income and assets

21 must be verified in a manner that is consistent with the requirements of 12 C.F.R. 226.34, as

22 promulgated on the effective date of **chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2188)**

23 [*this 2009 Act*].

24 “(3) A negative amortization loan may not contain a prepayment penalty beyond the first 24

25 months after the date on which the loan is made.

26 “(4) A creditor may not collect a prepayment penalty on an existing negative amortization loan

27 in return for or as a consequence of refinancing or providing funds to refinance the negative

28 amortization loan.

29 “**SECTION 39.** If House Bill 2188 becomes law, section 3, chapter \_\_, Oregon Laws 2009 (En-

30 rolled House Bill 2188), is amended to read:

31 “**Sec. 3.** (1) A mortgage banker, a mortgage broker or a **mortgage** loan originator shall provide

32 in writing the materials identified in subsection (2) of this section to a borrower if the mortgage

33 banker, mortgage broker or **mortgage** loan originator:

34 “(a) Communicates or causes to be communicated an advertisement in a language other than

35 English or otherwise solicits business in a language other than English; and

36 “(b) Offers to negotiate or make, or negotiates or makes, a residential mortgage transaction in

37 the course of which a substantial portion of the communication with the borrower that is related

38 to the transaction takes place in the language other than English that was used to communicate the

39 advertisement or make the solicitation.

40 “(2) A mortgage banker, mortgage broker or **mortgage** loan originator that takes an action

41 described in subsection (1) of this section shall provide the following materials to the borrower in

42 English and in the language other than English in which a substantial portion of the communication

43 that is related to the transaction takes place:

44 “(a) A good faith estimate required under the Real Estate Settlement Procedures Act, 12 U.S.C.

45 2601 et seq., and under Regulation X, 24 C.F.R. part 3500, as enacted or promulgated on January

1 1, 2010;

2 “(b) The disclosures related to the transaction that are required under the Truth in Lending  
3 Act, 15 U.S.C. 1601 et seq., and under Regulation Z, 12 C.F.R. part 226, as enacted or promulgated  
4 on the effective date of **chapter \_\_, Oregon Laws 2009 (Enrolled House Bill 2188)** [*this 2009*  
5 *Act*]; and

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

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

12 “**SECTION 40. The amendments to sections 2 and 3, chapter \_\_, Oregon Laws 2009 (En-**  
13 **rolled House Bill 2188), by sections 38 and 39 of this 2009 Act become operative on January**  
14 **1, 2010.**

15 “**SECTION 41.** If House Bill 2191 becomes law, ORS 697.612, as amended by section 2, chapter  
16 \_\_, Oregon Laws 2009 (Enrolled House Bill 2191), is amended to read:

17 “697.612. (1) A person that has not registered with the Director of the Department of Consumer  
18 and Business Services under ORS 697.632 may not engage in business in this state in the course of  
19 which the person:

20 “(a) Performs a debt management service; or

21 “(b) Receives money or other valuable consideration or expects to receive money or other val-  
22 uable consideration for:

23 “(A) Soliciting or receiving an application from a consumer for a debt management service;

24 “(B) Forwarding or providing a completed application for a debt management service to a debt  
25 management service provider;

26 “(C) Referring a consumer to another debt management service provider, if the person is a debt  
27 management service provider;

28 “(D) Providing a consumer’s name, address or other information that identifies the consumer to  
29 a debt management service provider for the purpose of arranging the provision of a debt manage-  
30 ment service; or

31 “(E) Providing advice, assistance, instruction or instructional material concerning a debt man-  
32 agement service to a consumer.

33 “(2) A debt management service provider registered under ORS 697.632 may negotiate on a  
34 consumer’s behalf for a reasonable alternative repayment schedule or to reduce a claim described  
35 in 11 U.S.C. 502 if the debt management service provider is a nonprofit budget and credit counseling  
36 agency approved in accordance with 11 U.S.C. 111.

37 “(3) Subsection (1) of this section does not apply to:

38 “(a) An employee of a debt management service provider, if the debt management service pro-  
39 vider is registered under ORS 697.632.

40 “(b) An attorney licensed or authorized to practice law in this state, if the attorney provides a  
41 debt management service only incidentally in the practice of law.

42 “(c) A financial institution or a trust company, both as defined in ORS 706.008.

43 “(d) A consumer finance company licensed under ORS chapter 725.

44 “(e) An escrow agent licensed under ORS 696.505 to 696.590.

45 “(f) A mortgage banker or mortgage broker licensed under ORS 59.840 to 59.980 or a **mortgage**

1 loan originator, as defined in ORS 59.840.

2 “(g) A broker-dealer registered with the United States Securities and Exchange Commission or  
3 the United States Commodity Futures Trading Commission, if the broker-dealer is subject to and  
4 acts in accordance with regulations promulgated by either commission.

5 “(h) A consumer reporting agency, as defined in 15 U.S.C. 1681a(f).

6 “(i) A public body, as defined in ORS 174.109.

7 “(j) A person that is obeying or acting in accordance with a court order.

8 “(k) An accredited educational institution or program that offers or performs a debt management  
9 service without receiving money or other valuable consideration, if the institution or program per-  
10 forms the debt management service as an incidental part of a class or a duty the institution or  
11 program provides regularly.

12 “(L) A nonprofit budget and credit counseling agency approved in accordance with 11 U.S.C. 111  
13 that:

14 “(i) Provides only an individual or group briefing, as described in 11 U.S.C. 109(h), or an in-  
15 structional course concerning personal financial management, as described in 11 U.S.C. 111; and

16 “(ii) Does not receive or offer to receive funds from a consumer for the purpose of distributing  
17 the funds among the consumer’s creditors in full or partial payment of the consumer’s debts.

18 “(m) A nonprofit entity that provides advice, assistance, instruction or instructional materials  
19 to a consumer in return for a fee that is reasonably calculated to pay the cost of making the advice,  
20 assistance, instruction or instructional materials available.

21 “(n) An organization or a counselor approved by the United States Department of Housing and  
22 Urban Development under 12 U.S.C. 1701x.

23 “**SECTION 42. The amendments to ORS 697.612 by section 41 of this 2009 Act become**  
24 **operative on January 1, 2010.”.**

25 In line 31, delete “38” and insert “43”.  
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