

# House Bill 2189

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## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Director of Department of Consumer and Business Services to license mortgage bankers and mortgage brokers in cooperation with Nationwide Mortgage Licensing System and Registry. Requires director to adopt rules necessary to conform with requirements of federal Housing and Economic Recovery Act of 2008.

Requires person that is licensed as mortgage banker or mortgage broker, person that applies for mortgage banker's or mortgage broker's license or other person that employs loan originator to maintain bond or letter of credit. Requires person to keep certain records and to maintain records for loan originators through Nationwide Mortgage Licensing System and Registry.

Sets educational and testing requirements for obtaining or renewing loan originator's license and requires submission of certain information for criminal records check.

Requires loan originator to be licensed under Nationwide Mortgage Licensing System and Registry and obtain unique identifier.

Specifies grounds on which director may deny, suspend, condition or revoke mortgage banker's, mortgage broker's or loan originator's license.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to regulation of mortgage professionals; creating new provisions; amending ORS 59.840,  
3 59.845, 59.850, 59.860, 59.865, 59.875, 59.880, 59.900, 59.905, 59.945, 59.962, 59.969, 59.970, 59.971,  
4 59.972, 59.973, 59.975, 59.992 and 725.230; repealing ORS 59.977 and section 7, chapter 526,  
5 Oregon Laws 2003; and declaring an emergency.

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

7 **SECTION 1.** ORS 59.840 is amended to read:

8 59.840. As used in ORS 59.840 to 59.980:

9 *[(1) "Director" means the Director of the Department of Consumer and Business Services.]*

10 *[(2)] (1) "Fraud," "deceit" and "defraud" are not limited to common-law deceit.*

11 *[(3) "License" means a license issued to a mortgage banker or mortgage broker under ORS 59.840*  
12 *to 59.980.]*

13 *[(4)(a) "Loan originator" means an individual employed by or purporting to act as an agent or*  
14 *independent contractor for a mortgage banker or mortgage broker that is required to be licensed under*  
15 *ORS 59.840 to 59.980, with the expectation by the individual of compensation or gain that is determined*  
16 *by the amount borrowed or the terms and conditions agreed to by the mortgage loan borrower, and*  
17 *having primary job responsibilities that include negotiating with a borrower or potential borrower for*  
18 *the purpose of establishing the terms and conditions of a mortgage loan.]*

19 *[(b) "Loan originator" includes a person employed at a location outside this state whose primary*  
20 *job responsibilities include contacting or attempting to contact a borrower or potential borrower within*  
21 *this state through any medium or mode of communication for purposes of providing a mortgage loan*  
22 *within this state.]*

23 *[(c) "Loan originator" does not include an individual whose responsibilities are clerical or admin-*

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 *istrative functions, including but not limited to gathering information, requesting information, word*  
 2 *processing, soliciting general interest in mortgage loans, sending correspondence and assembling*  
 3 *files.]*

4 [(d) "Loan originator" does not include an employee of a mortgage banker that is rated as good  
 5 or better under the federal rating system in effect on May 1, 2001, for seller-servicers of Federal  
 6 Housing Administration, Federal Home Loan Mortgage Corporation or Federal National Mortgage  
 7 Association loans and that has an office within this state at which the mortgage banker maintains  
 8 complete and current copies of all employment records and other records as required by the Director  
 9 of the Department of Consumer and Business Services by order or rule, in a format acceptable to the  
 10 director.]

11 [(e) "Loan originator" does not include an insurance producer licensed under ORS 744.052 to  
 12 744.089 or insurance consultant licensed under ORS 744.002.]

13 [(f) "Loan originator" does not include a person or group of persons exempted by rule or order of  
 14 the director.]

15 **(2)(a) "Loan originator" means an individual who, for compensation or gain:**

16 **(A) Takes a residential mortgage loan application; or**

17 **(B) Offers or negotiates terms for a residential mortgage loan.**

18 **(b) "Loan originator" does not include:**

19 **(A) An employee of a financial institution as defined in ORS 706.008 or a subsidiary that**  
 20 **is owned and controlled by a financial institution.**

21 **(B) An individual who only underwrites or processes loans and does not advertise, com-**  
 22 **municate or otherwise represent to the public in any manner that the individual can or will**  
 23 **perform any activities as a loan originator.**

24 **(C) An individual who works on behalf of a loan originator only to:**

25 **(i) Receive, collect, distribute or analyze information commonly used to process or**  
 26 **underwrite a residential mortgage loan; or**

27 **(ii) Obtain information necessary to process or underwrite a residential mortgage loan**  
 28 **from a consumer by means of communication that does not include offering, negotiating or**  
 29 **providing advice concerning loan rates or terms.**

30 **(D) A real estate broker, as defined in ORS 696.010, unless the real estate broker is**  
 31 **compensated, directly by or through an agent of, a mortgage banker, a mortgage broker, a**  
 32 **loan originator or a person that funds a residential mortgage loan.**

33 **(E) A person that extends credit only in connection with a timeshare plan, as defined in**  
 34 **11 U.S.C. 101(53D).**

35 [(5)] **(3) "Mortgage banker":**

36 **(a) Means any person [who] that for compensation or in the expectation of compensation:**

37 **(A) Either directly or indirectly makes, negotiates or offers to make or negotiate a mortgage**  
 38 **banking loan or a mortgage loan; and**

39 **(B) Services or sells a mortgage banking loan.**

40 **(b) Does not include:**

41 **(A) A financial institution, as defined in ORS 706.008.**

42 **(B) A financial holding company or a bank holding company, as defined in ORS 706.008, holding**  
 43 **an institution described in subparagraph (A) of this paragraph. [; a savings and loan holding company**  
 44 **as defined in section 408 of the National Housing Act, 12 U.S.C. 1730a (1982), holding an association**  
 45 **described in subparagraph (A) of this paragraph; the subsidiaries and affiliates of the financial holding**

1 *company, bank holding company or savings and loan holding company; or subsidiaries and affiliates*  
 2 *of institutions described in subparagraph (A) of this paragraph, provided that the appropriate statutory*  
 3 *regulatory authority is exercising control over or is regulating or supervising the persons listed in this*  
 4 *subparagraph in their mortgage banking activities in accordance with the purposes of ORS 59.840 to*  
 5 *59.980.]*

6 (C) A person *[who]* **that** makes a loan secured by an interest in real estate with the person’s  
 7 own moneys[,] for the person’s own investment and *[who]* **that** is not engaged in the business of  
 8 making loans secured by an interest in real estate.

9 (D) An attorney licensed in this state who negotiates mortgage banking loans or mortgage loans  
 10 in the ordinary course of business, unless the business of negotiating mortgage banking loans or  
 11 mortgage loans constitutes substantially all of the attorney’s professional activity.

12 (E) A person *[who]* **that**, as seller of real property, receives one or more mortgages or deeds of  
 13 trust as security for a separate money obligation.

14 (F) An agency of any state or of the United States.

15 (G) A person *[who]* **that** receives a mortgage or deed of trust on real property as security for  
 16 an obligation payable on an installment or deferred payment basis and arising out of materials fur-  
 17 nished or services rendered in the improvement of that real property or any lien created without  
 18 the consent of the owner of the real property.

19 (H) A person *[who]* **that** funds a mortgage banking loan or mortgage loan *[which]* **that a**  
 20 **licensee or exempt person has originated and processed and that** *[has been originated and pro-*  
 21 *cessed by a licensee or by an exempt person and who]* does not maintain a place of business in this  
 22 state in connection with funding mortgage banking loans or mortgage loans, does not directly or  
 23 indirectly solicit borrowers in this state for the purpose of making mortgage banking loans or  
 24 mortgage loans and does not participate in the negotiation of mortgage banking loans or mortgage  
 25 loans. For the purpose of this subparagraph, “negotiation of mortgage banking loans or mortgage  
 26 loans” does not include setting the terms under which a person may buy or fund a mortgage banking  
 27 loan or a mortgage loan **that a licensee or exempt person** originated *[by a licensee or exempt*  
 28 *person]*.

29 (I) A nonprofit federally tax exempt corporation certified by the United States Small Business  
 30 Administration and organized to promote economic development within this state whose primary  
 31 activity consists of providing financing for business expansion.

32 (J) A licensee licensed under ORS chapter 725 or a mortgage broker.

33 (K) A retirement or pension fund.

34 (L) An insurer as defined in ORS 731.106.

35 (M) A court appointed fiduciary.

36 (N) Any other person designated by rule or order of the Director **of the Department of Con-**  
 37 **sumer and Business Services.**

38 [(6)] (4) “Mortgage banking loan” means a loan, extension of credit or [a] retail sales contract  
 39 that is funded exclusively from the mortgage banker’s own resources, *[which]* **that** is directly or  
 40 indirectly secured by a mortgage or deed of trust or any lien interest on real estate and *[which]* **that**  
 41 is created with the consent of the owner of the real property. For purposes of this subsection, “own  
 42 resources” means any of the following:

43 (a) Cash, corporate capital, warehouse credit lines at financial institutions defined in ORS  
 44 706.008 or other sources that are liability items of the mortgage banker’s financial statements for  
 45 which *[its]* **the mortgage banker’s** assets are pledged;

1 (b) Correspondent contracts between the mortgage banker and a bank, savings bank, trust  
 2 company, savings and loan association, credit union, profit sharing or pension trust, a licensee under  
 3 ORS chapter 725 or an insurance company; or

4 (c) The mortgage banker’s affiliates’ cash, corporate capital, warehouse credit lines at financial  
 5 institutions defined in ORS 706.008 or other sources that are liability items on the affiliates’ finan-  
 6 cial statements for which the affiliates’ assets are pledged. As used in this paragraph, “affiliates”  
 7 means entities that, directly or indirectly, through one or more intermediaries [*controls*] **control**, are  
 8 controlled by or are under common control with the entity specified.

9 [(7)] **(5)(a)** “Mortgage broker”[:]

10 [(a)] means a person [*who*] **that**:

11 (A) Engages all or part of the time, for the account of others or for the person’s own account,  
 12 in the business of selling real estate paper whether as issuer, agent or principal to persons other  
 13 than persons enumerated in ORS 59.035 (4);

14 (B) Engages all or part of the time, for the account of others or for the person’s own account,  
 15 in the business of accepting funds from one or more persons other than persons enumerated in ORS  
 16 59.035 (4) for investment in real estate paper; or

17 (C) For compensation, or in the expectation of compensation, either directly or indirectly makes,  
 18 negotiates or offers to make or negotiate a mortgage loan.

19 (b) **“Mortgage broker”** does not include:

20 (A) A financial institution, as defined in ORS 706.008.

21 (B) A financial holding company or a bank holding company, as defined in ORS 706.008, holding  
 22 an institution described in subparagraph (A) of this paragraph.[: *a savings and loan holding company*  
 23 *as defined in section 408 of the National Housing Act, 12 U.S.C. 1730a (1982), holding an association*  
 24 *described in subparagraph (A) of this paragraph; the subsidiaries and affiliates of the financial holding*  
 25 *company, bank holding company or savings and loan holding company; or subsidiaries and affiliates*  
 26 *of institutions described in subparagraph (A) of this paragraph, provided that the appropriate statutory*  
 27 *regulatory authority is exercising control over or is regulating or supervising the persons listed in this*  
 28 *subparagraph in their mortgage brokering activities in accordance with the purposes of ORS 59.840 to*  
 29 *59.980.*]

30 (C) A person [*who*] **that** purchases real property and issues an obligation to finance the trans-  
 31 action to the seller incidentally to the sale.

32 (D) A real estate licensee as defined in ORS 696.010 who performs services solely incidental to  
 33 the practice of professional real estate activity as defined in ORS 696.010, unless the real estate  
 34 licensee performs the functions of a mortgage banker or a mortgage broker as defined in this sec-  
 35 tion.

36 (E) A person licensed under the provisions of ORS chapter 725 or a mortgage banker.

37 (F) A person [*who*] **that** makes a loan secured by an interest in real estate with the person’s  
 38 own moneys[,] for the person’s own investment and [*who*] **that** is not engaged in the business of  
 39 making loans secured by an interest in real estate.

40 (G) An attorney licensed in this state who negotiates mortgage loans in the ordinary course of  
 41 business, unless the business of negotiating mortgage loans constitutes substantially all of the at-  
 42 torney’s professional activity.

43 (H) A person [*who*] **that**, as seller of real property, receives one or more mortgages or deeds  
 44 of trust as security for a separate money obligation.

45 (I) An agency of any state or of the United States.

1 (J) A person *[who]* **that** receives a mortgage or deed of trust on real property as security for  
 2 an obligation payable on an installment or deferred payment basis and arising out of materials fur-  
 3 nished or services rendered in the improvement of that real property or any lien created without  
 4 the consent of the owner of the real property.

5 (K) A person *[who]* **that** funds a mortgage loan *[which]* **that a licensee or exempt person has**  
 6 **originated and processed and that** *[has been originated and processed by a licensee or by an exempt*  
 7 *person and who]* does not maintain a place of business in this state in connection with funding  
 8 mortgage loans, does not directly or indirectly solicit borrowers in this state for the purpose of  
 9 making mortgage loans and does not participate in the negotiation of mortgage loans. For the pur-  
 10 pose of this subparagraph, “negotiation of mortgage loans” does not include setting the terms under  
 11 which a person may buy or fund a mortgage loan **that a licensee or exempt person** originated  
 12 *[by a licensee or exempt person]*.

13 (L) A nonprofit federally tax exempt corporation certified by the United States Small Business  
 14 Administration and organized to promote economic development within this state whose primary  
 15 activity consists of providing financing for business expansion.

16 (M) A person licensed under ORS 446.691 or 446.696 or a temporary manufactured structure  
 17 dealer licensee under ORS 446.701 *[who]* **that** provides services customarily associated with the re-  
 18 tail sales of manufactured dwellings, including communication of generally available information  
 19 regarding mortgage loans, unless:

20 (i) The person receives from a purchaser a fee or commission as a mortgage broker or mortgage  
 21 banker that is disclosed in the sales contract, purchase agreement or applicable federal documents;

22 (ii) For the benefit of a potential purchaser, the person completes a loan application form or  
 23 other document that is part of a mortgage banking loan and completes a good faith estimate under  
 24 the federal Real Estate Settlement Procedures Act, *[(12 U.S.C. 2601 et seq.)]*;

25 (iii) The person solicits or receives credit information from a prospective purchaser for the  
 26 purpose of making credit decisions; or

27 (iv) The person negotiates with a potential purchaser the terms of a mortgage loan including  
 28 but not limited to points, interest rates, length of loan or other loan conditions.

29 (N) Any other person designated by rule or order of the director.

30 *[(8)]* **(6)** “Mortgage loan” means a loan, extension of credit or retail sales contract, other than  
 31 a mortgage banking loan, secured by a mortgage or deed of trust or any lien interest on real estate  
 32 that is created with the consent of the owner of the real estate.

33 **(7) “Nationwide Mortgage Licensing System and Registry” means a system for licensing**  
 34 **loan originators that is developed and maintained by the Conference of State Bank Supervi-**  
 35 **sors and the American Association of Residential Mortgage Regulators or successor organ-**  
 36 **izations under the provisions of Division A, Title V of the Housing and Economic Recovery**  
 37 **Act of 2008, P.L. 110-289.**

38 **(8) “Residential mortgage loan” means a loan extended primarily for personal, family or**  
 39 **household use that is secured by a mortgage, deed of trust or other equivalent consensual**  
 40 **security interest on a dwelling, as defined in 15 U.S.C. 1602(v), or on residential real estate**  
 41 **upon which a dwelling is or is intended to be constructed.**

42 (9) “Residential mortgage transaction” means a transaction in which a mortgage, deed of trust,  
 43 purchase money security interest arising under an installment sales contract, or equivalent  
 44 consensual security interest is created or retained in property upon which four or fewer residential  
 45 dwelling units are planned or situated, including but not limited to individual units or condominiums

1 and cooperatives. As used in this subsection, “residential dwelling unit” means an improvement de-  
 2 signed for residential occupancy.

3 **(10) “Unique identifier” means a number or other means of identification assigned by or**  
 4 **under protocols established by the Nationwide Mortgage Licensing System and Registry.**

5 **SECTION 1a.** ORS 59.845 is amended to read:

6 59.845. (1) *[It is unlawful for any person to]* **A person may not** engage in residential mortgage  
 7 transactions in this state as a mortgage banker or mortgage broker unless the person is licensed  
 8 under ORS 59.840 to 59.980. A person *[who]* **that** is a mortgage banker or mortgage broker under  
 9 ORS 59.840, but *[who]* **that** does not engage in residential mortgage transactions in this state, is not  
 10 required to obtain a **mortgage banker’s or mortgage broker’s** license under ORS 59.840 to 59.980.

11 (2) For purposes of this section, a person “engages in residential mortgage transactions in this  
 12 state” when any act constituting the business of a mortgage banker or mortgage broker and in-  
 13 volving a residential mortgage transaction originates from this state or is directed to and received  
 14 in this state or when the real estate that is the subject of the activities of the mortgage banker or  
 15 mortgage broker is located in this state.

16 **SECTION 2.** ORS 59.850 is amended to read:

17 59.850. (1) The Director of the Department of Consumer and Business Services by rule shall es-  
 18 tablish procedures for licensing mortgage bankers or mortgage brokers. The director may *[coordinate*  
 19 *licensing with any national registration or licensing system.]* **license mortgage bankers and mort-**  
 20 **gage brokers in coordination with the Nationwide Mortgage Licensing System and Registry.**  
 21 **For purposes of this section, “coordination” includes paying or having licensees pay fees and**  
 22 **costs directly to the Nationwide Mortgage Licensing System and Registry.**

23 (2) An applicant for a **mortgage banker’s or mortgage broker’s** license *[as a mortgage banker*  
 24 *or mortgage broker]*, or a managing partner, director, executive officer or other individual  
 25 *[occupying]* **that occupies** a similar position or *[performing]* **performs** similar functions for the ap-  
 26 plicant, shall have, during the five years immediately preceding the *[time]* **date** of application, not  
 27 less than three years’ experience in the mortgage business, three years’ experience negotiating loans  
 28 in a related business satisfactory to the Director **of the Department of Consumer and Business**  
 29 **Services** or three years’ equivalent lending experience in a related business satisfactory to the di-  
 30 rector.

31 (3) If a *[license as a mortgage banker or mortgage broker]* **mortgage banker’s or mortgage**  
 32 **broker’s license** is issued to a person other than an individual, at least one managing partner, di-  
 33 rector, executive officer or other individual *[occupying]* **that occupies** a similar position or *[per-*  
 34 *forming]* **performs** similar functions for the person shall, at all times during the term of the license,  
 35 satisfy the experience requirement described in subsection (2) of this section.

36 *[(4) Every applicant for a license as a mortgage banker or mortgage broker shall file with the di-*  
 37 *rector a corporate surety bond or irrevocable letter of credit issued by an insured institution as defined*  
 38 *in ORS 706.008 as the director may approve by rule running to the State of Oregon in a sum to be*  
 39 *determined by the director by rule.]*

40 *[(5) The total amount of the corporate surety bond or irrevocable letter of credit for a single ap-*  
 41 *plicant under subsection (4) of this section shall be not less than \$25,000 but not more than \$50,000,*  
 42 *regardless of the number of offices of the applicant. If an applicant has more than one office in this*  
 43 *state to engage in residential mortgage transactions as a mortgage banker or mortgage broker, the*  
 44 *amount of the bond or letter of credit shall increase for each additional office in an amount determined*  
 45 *by the director by rule. The amount of the increase in the bond or letter of credit for each additional*

1 office shall be not less than \$5,000 but not more than \$10,000. The director may adjust the minimum  
 2 amount of the increase in the bond or letter of credit for additional offices as necessary to comply with  
 3 the \$50,000 limit.]

4 **(4)(a) If a licensee, an applicant for a mortgage banker's or mortgage broker's license**  
 5 **or another person employs a loan originator, the licensee, applicant or person shall obtain a**  
 6 **corporate surety bond or irrevocable letter of credit that covers the activities of loan origi-**  
 7 **nators that the licensee, applicant or person employs.**

8 **(b) If a licensee or an applicant for a mortgage banker's or mortgage broker's license**  
 9 **does not employ a loan originator and does not originate residential mortgage loans, the**  
 10 **licensee or applicant shall obtain a corporate surety bond or irrevocable letter of credit that**  
 11 **covers the licensee's or applicant's activities.**

12 **(5) The Director of the Department of Consumer and Business Services by rule may ac-**  
 13 **cept as sufficient for the purposes of meeting the requirement to obtain a corporate surety**  
 14 **bond or irrevocable letter of credit under this section a corporate surety bond or irrevocable**  
 15 **letter of credit required under another provision of law if:**

16 **(a) The amount of the corporate surety bond or irrevocable letter of credit required un-**  
 17 **der the other provision of law is equal to or larger than the amount the director requires**  
 18 **under subsection (8)(c) of this section; and**

19 **(b) The amount of the corporate surety bond or irrevocable letter of credit required un-**  
 20 **der the other provision of law is sufficient to pay the obligation that is the basis for the re-**  
 21 **quirement under the other provision of law.**

22 **(6) If [the] an applicant's application, corporate surety bond or irrevocable letter of credit and**  
 23 **fees are in order and the director is satisfied that the application should not be denied upon one**  
 24 **or more of the grounds specified in ORS 59.865, 59.870 or 59.875, the director shall issue a mort-**  
 25 **gage banker's or mortgage broker's license [the mortgage banker or mortgage broker] to the ap-**  
 26 **plicant.**

27 **(7) When there are material changes in the information contained in the original appli-**  
 28 **cation or when an action against a licensee's corporate surety bond or irrevocable letter of**  
 29 **credit is commenced, the [A] licensee shall amend the license application and, if necessary, in-**  
 30 **crease the amount of the corporate surety bond or irrevocable letter of credit [as described] to the**  
 31 **amount the director specifies in subsection [(5)] (8)(c) of this section or file a new corporate**  
 32 **surety bond or irrevocable letter of credit. [when there are material changes in the information**  
 33 **contained in the original application.]**

34 **(8) The director shall:**

35 **[(a) Charge and collect fees for initial and renewal license applications;]**

36 **(a) Charge and collect fees to evaluate applications for mortgage banker and mortgage**  
 37 **broker licenses and to issue or renew mortgage banker or mortgage broker licenses;**

38 **(b) Set by rule all fees required under this section. [Fees shall be set to reflect those] The di-**  
 39 **rector shall set the fees at** amounts sufficient to meet the costs of administering ORS 59.840 to  
 40 59.980, including *[those]* amounts sufficient to establish and maintain a reasonable emergency fund;  
 41 and

42 **(c) Set by rule the amounts of corporate surety bonds and irrevocable letters of credit required**  
 43 **under this section. The director shall require that the corporate surety bond or irrevocable**  
 44 **letter of credit be issued by an insured institution, as defined in ORS 706.008, and that it run**  
 45 **to the State of Oregon.**

1 (9) The fees under this section are not refundable except for *[those]* fees that the director de-  
 2 termines by rule may be refundable.

3 **SECTION 3.** ORS 59.860, as amended by section 1, chapter 38, Oregon Laws 2008, is amended  
 4 to read:

5 59.860. (1) *[Every]* **A mortgage banker, *[and]* mortgage broker or loan originator** shall make and  
 6 keep such accounts, correspondence, memoranda, papers, books and other records as the Director  
 7 of the Department of Consumer and Business Services by rule or order prescribes. *[All such records*  
 8 *shall be preserved]* **The mortgage banker, mortgage broker or loan originator shall preserve**  
 9 **the records** for five years unless the director by rule prescribes otherwise. The director may ex-  
 10 amine *[all such]* **the** records within or *[without]* **outside** this state at any reasonable time or times  
 11 and may require without subpoena the production of *[such]* **the** records at the office of the director  
 12 as often as is reasonably necessary.

13 (2) *[Every]* **A mortgage banker, *[and]* mortgage broker or loan originator** shall file financial  
 14 reports or other information as the director by rule or order may require and shall promptly correct  
 15 any document filed with the director that is or becomes incomplete or inaccurate in any material  
 16 respect.

17 (3) On or before May 1 of each year or on a date the director establishes by rule, *[every]* **a**  
 18 mortgage banker and mortgage broker shall file a report with the director in a form prescribed by  
 19 the director. The report shall contain information the director requires concerning the mortgage  
 20 banker's or mortgage broker's business and operations related to residential mortgage lending dur-  
 21 ing the preceding calendar year. The information shall include the number and nature of loans  
 22 originated by loan originators that the mortgage banker or mortgage broker employed.

23 (4) The report and any records submitted to the director under this section are exempt from  
 24 disclosure or production and are confidential as provided under ORS 705.137.

25 (5) Notwithstanding the exemption and confidentiality provisions of subsection (4) of this section,  
 26 the director may abstract information contained in reports submitted under subsection (3) of this  
 27 section and may make the abstracted information available for public inspection provided that the  
 28 abstracted information does not identify a particular mortgage banker or mortgage broker as a  
 29 source of the information.

30 **SECTION 4.** ORS 59.865 is amended to read:

31 59.865. Except as provided in ORS 59.870, the Director of the Department of Consumer and  
 32 Business Services may by order deny, suspend, condition or revoke a *[license of a person as a mort-*  
 33 *gage banker or mortgage broker]* **mortgage banker's, mortgage broker's or loan originator's li-**  
 34 **cence and may in addition impose a fine or other penalty under the provisions of ORS 59.840**  
 35 **to 59.980** if the director finds that the applicant or licensee:

36 (1) Is insolvent, either in the sense that the liabilities of the applicant or licensee exceed the  
 37 assets of the applicant or licensee or that the applicant or licensee cannot meet the obligations of  
 38 the applicant or licensee as the obligations mature, or **that the applicant or licensee** is in such  
 39 financial condition that the applicant or licensee cannot continue in business with safety to the  
 40 customers of the applicant or licensee.

41 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or pro-  
 42 fession or unfair or unethical practices or conduct in connection with the mortgage business.

43 (3) Has willfully or repeatedly violated or failed to comply with any provision of ORS 59.840 to  
 44 59.980 or any rule or order of the director.

45 (4) **Has, in the conduct of a mortgage lending business, failed to comply with one or more**



1 **of the requirements set forth in:**

2 (a) **The Truth in Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 C.F.R. part 226,**  
3 **as in effect on January 1, 2010;**

4 (b) **The Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., and Regulation**  
5 **X, 24 C.F.R. part 3500, as in effect on the effective date of this 2009 Act;**

6 (c) **The Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq., and Regulation B, 12 C.F.R.**  
7 **202.9, 202.11 and 202.12, as in effect on the effective date of this 2009 Act; and**

8 (d) **Division A, Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289,**  
9 **and regulations promulgated under the Act, as in effect on the effective date of this 2009 Act.**

10 (5) **Has failed to cooperate with an examination conducted under ORS 59.880 or an in-**  
11 **vestigation conducted under ORS 59.885.**

12 [(4)] (6) **Has been convicted of a misdemeanor, an essential element of which is fraud, or of a**  
13 **felony.**

14 [(5)] (7) **Has filed an application for a license that, as of the date the license was issued[,] or**  
15 **as of the date of an order [denying, suspending, conditioning or revoking a] that denied, suspended,**  
16 **conditioned or revoked the license, was incomplete in any material respect or contained any**  
17 **statement that, [was,] in light of the circumstances under which [it] the statement was made, was**  
18 **false or misleading with respect to any material fact.**

19 [(6)] (8) **Has failed to account to persons interested for all money or property received in con-**  
20 **nection with a mortgage loan.**

21 [(7)] (9) **Is permanently or temporarily enjoined by a court of competent jurisdiction from en-**  
22 **gaging in or continuing any conduct or practice involving any aspect of the mortgage business.**

23 [(8)] *Is the subject of an order of the director denying, suspending, conditioning or revoking a li-*  
24 *cence as a mortgage banker or mortgage broker.]*

25 (10) **Is subject to an order of the director that denies, suspends, conditions or revokes a**  
26 **mortgage banker's, mortgage broker's or loan originator's license.**

27 [(9)] (11) **Is the subject of a United States Postal Service fraud order that is currently effective**  
28 **and was issued within the last five years.**

29 [(10)] (12) **Does not have the experience required by ORS 59.850 (2) or (3).**

30 [(11)] (13) **Has failed to comply with the requirements of ORS 59.860 to make and keep records**  
31 **prescribed by rule or order of the director, to produce [such] records required by the director or to**  
32 **file any financial reports or other information the director by rule or order may require.**

33 [(12)] *Is the subject of an order of the director denying, suspending, conditioning or revoking a li-*  
34 *cence under the provisions of any other law administered by the director.]*

35 [(13)] *Is the subject of a cease and desist order entered after notice and opportunity for hearing and*  
36 *issued by the director within the last five years.]*

37 (14) **Is subject to an order of the director that denies, suspends, conditions or revokes a**  
38 **license under any other law the director administers.**

39 (15) **Is subject to a cease and desist order the director entered within the previous five**  
40 **years after the applicant or licensee had notice and an opportunity for a hearing.**

41 [(14)] (16) **Has demonstrated negligence or incompetence in performing any act for which the**  
42 **licensee is required to hold a license.**

43 [(15)] (17) **Has failed to supervise diligently and control the mortgage-related activities of a loan**  
44 **originator [employed by] the licensee employs.**

45 [(16)] (18) **Has knowingly misrepresented to the director the training of, examination of or con-**

1 continuing education time earned by a loan originator [*employed by*] the licensee **employs**.

2 [(17)] (19) Has willfully or repeatedly employed [*persons*] **individuals** as loan originators who  
 3 do not meet the training, education or continuing education requirements for loan originators.

4 [(18)] (20) Has failed to notify the director of the termination of a loan originator for failure to  
 5 comply with state or federal laws, regulations or rules.

6 **SECTION 5.** ORS 59.875 is amended to read:

7 59.875. [(1) *If the Director of the Department of Consumer and Business Services finds that an*  
 8 *applicant or licensee has ceased to do business as a mortgage banker or mortgage broker, or has failed*  
 9 *to maintain a bond required by ORS 59.850 or is subject to an adjudication of mental incompetence*  
 10 *or to the control of a committee, conservator or guardian, or cannot be located after reasonable search,*  
 11 *the director may cancel the license or application.*]

12 (1) **The Director of the Department of Consumer and Business Services may cancel a**  
 13 **mortgage banker’s, mortgage broker’s or loan originator’s license or application if the di-**  
 14 **rector finds that the applicant or licensee:**

15 (a) **Has ceased to do business as a mortgage banker, mortgage broker or loan originator;**

16 (b) **Has failed to maintain a corporate surety bond or irrevocable letter of credit required**  
 17 **under ORS 59.850;**

18 (c) **Is subject to an adjudication of mental incompetence or to the control of a**  
 19 **conservator or guardian; or**

20 (d) **Cannot be located after a reasonable search.**

21 (2) A mortgage banker, [*or*] mortgage broker **or loan originator** may [*withdraw*] **surrender** a  
 22 license **issued under ORS 59.840 to 59.980** by filing an application to [*withdraw*] **surrender**. Un-  
 23 less the director determines that the license should be suspended or revoked, the director shall al-  
 24 low the [*withdrawal*] **surrender** subject to any conditions, limitations and restrictions the director  
 25 may impose.

26 **SECTION 6.** ORS 59.880 is amended to read:

27 59.880. The Director of the Department of Consumer and Business Services [*shall have*] **has**  
 28 general supervision and control over [*all loan originators,*] mortgage bankers, [*and*] mortgage bro-  
 29 kers **and loan originators** residing or doing business in this state and engaged in any activity  
 30 subject to the provisions of ORS 59.840 to 59.980. [*All such persons and their records and everything*  
 31 *connected with their activities shall be subject to examination by the director at any time.*] **Mortgage**  
 32 **bankers, mortgage brokers and loan originators and the records and activities connected**  
 33 **with mortgage bankers, mortgage brokers and loan originators are subject to examination**  
 34 **by the director at any time.** The provisions of this section and of any other section of ORS 59.840  
 35 to 59.980 relating to examinations [*shall*] extend to any person [*who should have been reported as a*  
 36 *loan originator under ORS 59.969 or*] licensed as a mortgage banker, [*or*] mortgage broker **or loan**  
 37 **originator**, any person exempted by rule from [*those*] **the definitions of mortgage banker, mort-**  
 38 **gage broker or loan originator under ORS 59.840** or any person whose license has expired or has  
 39 been withdrawn, canceled, suspended, conditioned or revoked. The director may collect from each  
 40 such person the actual expenses incurred in [*that*] **the** examination.

41 **SECTION 7.** ORS 59.900 is amended to read:

42 59.900. (1) In accordance with this section and ORS chapter 183, the Director of the Department  
 43 of Consumer and Business Services may from time to time make, amend and rescind such rules as  
 44 are necessary to carry out the provisions of ORS 59.840 to 59.980, including but not limited to rules  
 45 governing the activities of loan originators, mortgage bankers and mortgage brokers and rules gov-

erning the purchase or sale of mortgage banking loans, mortgage loans or real estate paper in coordination with applicable provisions of ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995 and rules adopted thereunder.

(2) Any financial statement required under ORS 59.840 to 59.980 shall be prepared in accordance with generally accepted accounting principles. The director may by rule prescribe:

(a) The form and content of financial statements required under ORS 59.840 to 59.980;

(b) The circumstances under which consolidated financial statements shall be filed; and

(c) Whether any required financial statements shall be certified by independent or certified public accountants.

**(3) The director shall adopt rules or enter orders necessary to conform with the requirements of Division A, Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289.**

**(4) The director shall establish a process by means of which a loan originator may dispute or seek changes to information the director has entered into the Nationwide Mortgage Licensing System and Registry under section 1508(d)(4) of Division A, Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289.**

**SECTION 7a.** ORS 59.905 is amended to read:

59.905. (1) Except as provided in ORS 183.745, upon the entry of an order under ORS 59.840 to 59.980, the Director of the Department of Consumer and Business Services shall promptly give appropriate notice of the order as provided in this subsection. The notice shall state that a hearing will be held on the order if a written demand for hearing is filed with the director within 20 days after the date of service of the order. The notice shall be given to:

(a) The applicant or licensee with respect to orders entered pursuant to ORS 59.865;

(b) The loan originator and the licensee employing the loan originator with respect to orders entered pursuant to ORS 59.973; or

(c) All interested persons with respect to orders entered pursuant to any other provision of ORS 59.840 to 59.980.

(2) If [*timely demand for a hearing is filed by*] a person entitled to notice of the order **files a timely demand for a hearing**, the director shall hold a hearing on the order as provided by ORS chapter 183. In the absence of a timely demand for a hearing, a person is not entitled to judicial review of the order.

(3) After the hearing, the director shall enter a final order vacating, modifying or affirming the order.

(4) The director may enter a final order revoking a license **that was issued under ORS 59.840 to 59.980** notwithstanding the fact that the license has expired, if the initial order of revocation was issued prior to expiration of the license or registration.

**SECTION 8.** ORS 59.945 is amended to read:

59.945. (1) A mortgage banker or mortgage broker [*shall*] **may** not use or cause to be published any advertisement that:

[(1)] (a) Contains any false, misleading or deceptive statement or representation; or

[(2)] (b) Identifies the mortgage banker or mortgage broker by any name other than the name listed on the **mortgage banker's or mortgage broker's** license issued by the Director of the Department of Consumer and Business Services or an assumed business name registered under ORS chapter 648.

**(2) Residential mortgage loan application forms, solicitations and advertisements, in-**

1 **cluding business cards or websites, and other documents the director specifies by rule must**  
 2 **display the unique identifier for an individual that originates a residential mortgage loan.**

3 **SECTION 9.** ORS 59.962 is amended to read:

4 59.962. (1) With the permission of the lender, note owner, note holder or other holder of an in-  
 5 terest in a note, a mortgage banker or mortgage broker may service or collect any mortgage bank-  
 6 ing loan or mortgage loan in *[its own name]* **the name of the mortgage banker or mortgage**  
 7 **broker or in** the name of the lender, note owner, note holder or other holder of an interest in the  
 8 note.

9 (2) Except as provided in ORS 59.840 to 59.980, nothing in subsection (1) of this section *[is in-*  
 10 *tended to grant]* **grants** the Director of the Department of Consumer and Business Services the au-  
 11 thority to regulate the servicing or collection of any mortgage banking loan or mortgage loan by a  
 12 mortgage banker or mortgage broker.

13 (3) As used in this section:

14 (a) "Mortgage banker" has the meaning given that term in ORS 59.840 ~~[(5)(a)]~~ **(3)(a)** but also  
 15 includes *[those persons]* **a person** exempted from the definition of mortgage banker in ORS 59.840  
 16 ~~[(5)(b)]~~ **(3)(b)**.

17 (b) "Mortgage banking loan" has the meaning given that term in ORS 59.840.

18 (c) "Mortgage broker" has the meaning given that term in ORS 59.840.

19 (d) "Mortgage loan" has the meaning given that term in ORS 59.840.

20 (e) "Service or collect any mortgage banking loan or mortgage loan" includes but is not limited  
 21 to:

22 (A) Holding documents or written instruments and receiving and disbursing payments according  
 23 to the instructions of the parties to the documents or written instruments;

24 (B) Collecting or remitting, or having the right or obligation to collect or remit, for any lender,  
 25 note owner, note holder or other holder of an interest in a note or for a mortgage banker's or  
 26 mortgage broker's own account, payments, interest, principal and trust items, including but not  
 27 limited to hazard insurance and taxes, on a mortgage banking loan or mortgage loan in accordance  
 28 with the terms of the loan, and includes loan payment follow-up, delinquency loan follow-up, loan  
 29 analysis and *[any]* notifications to the borrower that are necessary to enable the borrower to keep  
 30 the loan current and in good standing; and

31 (C) Bringing and maintaining *[any]* **a** suit or action to collect *[any amounts]* **an amount** owed  
 32 on a mortgage banking loan or mortgage loan, including but not limited to the exercise of *[any]* **a**  
 33 contractual, statutory or common law *[remedies]* **remedy** such as injunction, specific performance,  
 34 judicial or nonjudicial foreclosure or receivership.

35 **SECTION 10.** ORS 59.969, as amended by section 2, chapter 38, Oregon Laws 2008, is amended  
 36 to read:

37 59.969. *[(1) A mortgage banker or mortgage broker must provide to the Director of the Department*  
 38 *of Consumer and Business Services, and keep current, a list of loan originators employed by the banker*  
 39 *or broker. The banker or broker shall notify the director within 30 days of the employment or termi-*  
 40 *nation of employment of a loan originator.]*

41 **(1) A mortgage banker or mortgage broker shall maintain current records through the**  
 42 **Nationwide Mortgage Licensing System and Registry for all loan originators that the mort-**  
 43 **gage banker or mortgage broker employs.**

44 (2) A person that applies for a license to conduct business as a mortgage banker or mortgage  
 45 broker under ORS 59.850 or that applies to renew a license under ORS 59.855 shall include with the

1 application evidence acceptable to the Director **of the Department of Consumer and Business**  
 2 **Services** that each individual the person has hired or intends to hire as a loan originator [has]:

3 [(a)(A) *Successfully completed an entry-level training course approved or provided by an organ-*  
 4 *ization certified by the director as described in ORS 59.977; and]*

5 [(B) *Passed an examination, approved or provided by an organization described in ORS 59.977,*  
 6 *on laws and rules relating to mortgage lending in this state; or]*

7 [(b) *If the individual has been employed as a loan originator for two or more years in this state,*  
 8 *completed continuing education as required by the director pursuant to ORS 59.975.]*

9 [(3) *A person that applies for a license to conduct business as a mortgage banker or mortgage*  
 10 *broker under ORS 59.850 or that applies to renew a license under ORS 59.855 shall include with the*  
 11 *application evidence acceptable to the director that each individual the person has hired or intends to*  
 12 *hire who is an insurance producer or insurance consultant licensed under ORS 744.002 and who is a*  
 13 *full-time loan originator as defined in ORS 59.970 has:]*

14 [(a)(A) *Successfully completed an entry-level training course approved or provided by an organ-*  
 15 *ization certified by the director as described in ORS 59.977; and]*

16 [(B) *Passed an examination, approved or provided by an organization described in ORS 59.977,*  
 17 *on laws and rules relating to mortgage lending in this state; or]*

18 [(b) *If the individual has been employed as a full-time loan originator for two or more years in this*  
 19 *state, completed continuing education as required by the director pursuant to ORS 59.975.]*

20 [(4) *An applicant under subsection (2) or (3) of this section shall, at the time of application, certify*  
 21 *that the applicant has conducted criminal records checks required under ORS 59.970 and 59.972*  
 22 *and:]*

23 [(a) *Certify that, to the best of the applicant's belief, no individual the applicant employs or intends*  
 24 *to employ as a loan originator has engaged in conduct that would constitute a violation of ORS 59.967*  
 25 *(2) or 59.971; or]*

26 (a) **Has, in accordance with the requirements set forth in ORS 59.970 (2):**

27 (A) **Completed prelicensing and continuing education; and**

28 (B) **Passed a written examination.**

29 (b) **Has not:**

30 (A) **Had a loan originator's license revoked in another state; or**

31 (B) **Pleaded guilty or no contest to, or been convicted of, a felony in a state or federal**  
 32 **court:**

33 (i) **During the seven-year period before the date on which the person applied for or ap-**  
 34 **plied to renew the license; or**

35 (ii) **At any time before the date on which the person applied for or applied to renew the**  
 36 **license, if the felony involved dishonesty, money laundering, a breach of trust or an act of**  
 37 **fraud.**

38 (3) **A person that submits an application under subsection (2) of this section shall, at the**  
 39 **time the person submits the application:**

40 (a) **Certify that the person has required individuals that the person has hired or intends**  
 41 **to hire as loan originators to furnish information necessary to conduct a criminal records**  
 42 **check under ORS 59.972; and**

43 (b)(A) **Certify that the individuals that the person has hired or intends to hire as loan**  
 44 **originators have not engaged in conduct that would violate ORS 59.967 (2) or 59.971; or**

45 [(b)] (B) **Note any exceptions to the certification made in [paragraph (a) of this subsection. An**

1 *applicant*] **subparagraph (A) of this paragraph. A person that submits an application under**  
 2 **subsection (2) of this section** is not subject to an action at law for making a notation under this  
 3 *[paragraph]* **subparagraph** in good faith.

4 *[(5) Except as provided in subsection (3) of this section, a mortgage banker or mortgage broker*  
 5 *may voluntarily report to the director regarding employees who would qualify as loan originators if*  
 6 *not exempted under ORS 59.840 (4). Voluntary reporting by a banker or broker under this subsection*  
 7 *does not make the reported employees subject to training, examination or continuing education re-*  
 8 *quirements or other laws governing loan originators.]*

9 *[(6) The director shall keep for not less than 10 years, and shall maintain a registry of loan orig-*  
 10 *inators with information derived from, records of:]*

11 **(4) The director shall keep and maintain a registry of loan originators. The information**  
 12 **in the director's registry, at a minimum, shall consist of:**

13 *[(a) Notifications filed under subsection (1) of this section;]*

14 *[(b)] (a) Exceptions to certifications submitted under subsection [(4)(b)] (3)(b)(B) of this section;*

15 *[(c)] (b) Complaints the director has determined are justified under ORS 59.973; and*

16 *[(d)] (c) Actions taken in accordance with the provisions of ORS 59.973.*

17 **(5) When the director finds that the Nationwide Mortgage Licensing System and Registry**  
 18 **contains substantially all of the information kept in the director's registry required under**  
 19 **subsection (4) of this section, the director may discontinue the director's registry.**

20 *[(7) Notwithstanding subsections (1) to (3) of this section and ORS 59.865 (17), 59.970, 59.971 (1)(d)*  
 21 *and 59.975, the director, by rule, may waive any training, examination or continuing education re-*  
 22 *quirement for a loan originator for a period not to exceed six months after the individual begins or*  
 23 *resumes employment as a loan originator.]*

24 **SECTION 11.** ORS 59.970 is amended to read:

25 59.970. *[(1) As used in this section, "loan originator" means an individual who:]*

26 *[(a) Is an insurance producer or insurance consultant licensed under ORS 744.002;]*

27 *[(b) Has not transacted insurance as defined in ORS 731.146 for a period of 60 consecutive days;*  
 28 *and]*

29 *[(c) Would qualify as a full-time loan originator if not exempted under ORS 59.840 (4).]*

30 *[(2) An individual who is an insurance producer or insurance consultant licensed under ORS*  
 31 *744.002 and who is employed full-time as a loan originator shall:]*

32 *[(a) Complete an entry-level training course approved or provided by an organization certified as*  
 33 *described in ORS 59.977;]*

34 *[(b) Pass an examination, approved or provided by an organization described in ORS 59.977, on*  
 35 *laws and rules relating to mortgage lending in this state;]*

36 *[(c) If the individual has been employed as a loan originator for two or more years in this state,*  
 37 *complete the continuing education requirements under ORS 59.975; and]*

38 *[(d) Undergo a criminal records check as required in ORS 59.972.]*

39 **(1) An individual may not transact business as a loan originator unless the individual**  
 40 **obtains a license from the Director of the Department of Consumer and Business Services**  
 41 **in the manner provided in this section. In order to obtain or renew a license to transact**  
 42 **business as a loan originator, the individual must:**

43 **(a) Have and maintain a registration with and a valid unique identifier from the Nation-**  
 44 **wide Mortgage Licensing System and Registry;**

45 **(b) Provide evidence to the director that the individual has met the requirements set**

1 forth under ORS 59.969 (2) and has submitted the information required under ORS 59.972 (1);  
 2 and

3 (c) Pay all fees charged for the license application, issuance or renewal directly to the  
 4 Nationwide Mortgage Licensing System and Registry.

5 (2) The director by rule shall establish procedures and requirements for licensing loan  
 6 originators in coordination with the Nationwide Mortgage Licensing System and Registry.  
 7 Before issuing or renewing a loan originator's license, the director shall require the individ-  
 8 ual who applies to obtain or renew the license to:

9 (a) Meet prelicensing or continuing education obligations, standards and criteria estab-  
 10 lished by the director. The director shall establish obligations, standards and criteria that  
 11 are consistent with obligations, standards and criteria established by the Nationwide Mort-  
 12 gage Licensing System and Registry.

13 (b) Pass a written examination developed and administered by the Nationwide Mortgage  
 14 Licensing System and Registry. The director shall establish standards and criteria for pass-  
 15 ing the examination that are consistent with standards and criteria established by the Na-  
 16 tionwide Mortgage Licensing System and Registry.

17 **SECTION 12.** ORS 59.971, as amended by section 3, chapter 38, Oregon Laws 2008, is amended  
 18 to read:

19 59.971. (1) *[A person employed by a mortgage banker or mortgage broker as]* A loan originator  
 20 may not:

21 (a) Engage in dishonest, fraudulent or illegal practices or conduct in any business or profession  
 22 or engage in unfair or unethical practices or conduct in connection with the mortgage business.

23 (b) Willfully or repeatedly violate or fail to comply with a provision of ORS 59.840 to 59.980 or  
 24 a rule or order of the Director of the Department of Consumer and Business Services.

25 (c) Fail to account to persons interested for all money or property received in connection with  
 26 a mortgage loan.

27 (d) Fail to meet the training, education or continuing education requirements for loan origina-  
 28 tors.

29 (e) Perform an act as a loan originator in a negligent or incompetent manner.

30 (2) *[A person]* **An individual** may not be employed *[by a mortgage banker or mortgage broker]*  
 31 as a loan originator *[as defined in ORS 59.840 or 59.970]* if:

32 (a) The *[person]* **individual** has been convicted of any crime or category of crime specified by  
 33 the director by rule;

34 (b) The *[person]* **individual** is suspended or has been prohibited from employment as a loan  
 35 originator under ORS 59.973 (5)(c);

36 (c) The employment violates any conditions imposed under ORS 59.973 (5)(c); or

37 (d) The employment violates an order issued by the director, a state or federal agency or a court  
 38 of competent jurisdiction.

39 **SECTION 13.** ORS 59.972 is amended to read:

40 59.972. *[(1) A mortgage banker or mortgage broker shall conduct a criminal records check of each*  
 41 *individual who the mortgage banker or mortgage broker employs or intends to employ as a loan orig-*  
 42 *inator.]*

43 *[(2) A mortgage banker or mortgage broker shall report to the Director of the Department of Con-*  
 44 *sumer and Business Services the results of each criminal records check conducted under subsection (1)*  
 45 *of this section.]*

1        [(3) *The director shall adopt rules:*]

2        [(a) *Necessary for the implementation and administration of criminal records checks required under*  
3 *this section and ORS 59.970; and*]

4        [(b) *Specifying categories of criminal convictions that will prevent a person from acting as a loan*  
5 *originator under ORS 59.971.*]

6        **(1) An individual who applies to obtain or renew a loan originator’s license shall furnish**  
7 **to the Nationwide Mortgage Licensing System and Registry:**

8        **(a) Fingerprints in a form suitable for the Federal Bureau of Investigation or an au-**  
9 **thorized government agency or entity to use to perform a state, national and international**  
10 **criminal records check;**

11       **(b) Personal history and professional experience in a form prescribed by the Nationwide**  
12 **Mortgage Licensing System and Registry; and**

13        **(c) Authorization for the Nationwide Mortgage Licensing System and Registry to obtain:**

14        **(A) An independent credit report for the individual from a consumer reporting agency,**  
15 **as defined in 15 U.S.C. 1681a; and**

16        **(B) Information about any administrative, civil or criminal proceedings, findings, judg-**  
17 **ments or convictions involving the individual.**

18        **(2) The Director of the Department of Consumer and Business Services may cooperate**  
19 **with and use the Nationwide Mortgage Licensing System and Registry or an entity author-**  
20 **ized by the Nationwide Mortgage Licensing System and Registry to collect, obtain, maintain**  
21 **and distribute information to or from an individual, entity or government agency in con-**  
22 **nection with the requirements set forth in subsection (1) of this section.**

23        **(3) The director shall adopt rules to:**

24        **(a) Implement and administer the criminal records checks required under this section;**  
25 **and**

26        **(b) Specify crimes and categories of crimes for which a conviction will, under ORS 59.971,**  
27 **prevent an individual from acting as a loan originator.**

28        **SECTION 14.** ORS 59.973, as amended by section 4, chapter 38, Oregon Laws 2008, is amended  
29 to read:

30        59.973. (1) If the Director of the Department of Consumer and Business Services receives a  
31 complaint against a loan originator for a violation of ORS 59.840 to 59.980, the director may notify  
32 the loan originator and the mortgage banker or mortgage broker employing the loan originator.

33        (2) The director may investigate a complaint against a loan originator. Upon the conclusion of  
34 the investigation, the director shall promptly notify the loan originator and the mortgage banker or  
35 mortgage broker employing the loan originator of the director’s proposed determination regarding  
36 the complaint.

37        (3) Any hearing on a complaint must be conducted as provided by rules of the director and  
38 pursuant to ORS chapter 183.

39        (4) If the director determines, after opportunity for hearing, that a complaint is justified, the  
40 director shall note the complaint and any action taken in the records kept pursuant to ORS 59.969  
41 [(6)] (4).

42        (5) The director, after finding that a loan originator has violated a provision of ORS 59.840 to  
43 59.980 or a rule or order of the director, may:

44        (a) Impose requirements for supervision and remedial education of the loan originator;

45        (b) Assess civil penalties against the loan originator as provided in ORS 59.996;



1 (c) **Deny, suspend, condition or revoke a loan originator’s license, suspend** or permanently  
 2 prohibit the loan originator from employment as a loan originator or place conditions on the loan  
 3 originator’s employment; or

4 (d) Refer the matter for criminal prosecution [*pursuant to*] **under** ORS 59.992.

5 **SECTION 15.** ORS 59.975 is amended to read:

6 59.975. [*The Director of the Department of Consumer and Business Services shall, by rule, estab-*  
 7 *lish continuing education requirements for persons employed by mortgage bankers or mortgage brokers*  
 8 *as loan originators. The requirements established by the director may not be less than 10 hours every*  
 9 *two years and not more than 20 hours every two years. The continuing education must be obtained*  
 10 *through continuing education programs approved or provided by an organization whose continuing*  
 11 *education curriculum and testing is certified by the director as described in ORS 59.977.]*

12 (1) **The Director of the Department of Consumer and Business Services may use the**  
 13 **Nationwide Mortgage Licensing System and Registry, or an entity authorized by the Nation-**  
 14 **wide Mortgage Licensing System and Registry, to process license and transaction fees col-**  
 15 **lected or imposed under ORS 59.840 to 59.980.**

16 (2) **The director shall report violations of ORS 59.840 to 59.980 and the enforcement**  
 17 **actions the director took in response to the violations, together with other relevant infor-**  
 18 **mation, to the Nationwide Mortgage Licensing System and Registry in compliance with sec-**  
 19 **tion 1508(d)(3) of Division A, Title V of the Housing and Economic Recovery Act of 2008, P.L.**  
 20 **110-289.**

21 **SECTION 16.** ORS 59.992 is amended to read:

22 59.992. (1) Violation of any provision of ORS 59.840 to 59.980 or any rule adopted by the Director  
 23 of the Department of Consumer and Business Services under ORS 59.840 to 59.980, except ORS  
 24 59.915 (2) [*and 59.975*], is a Class C felony.

25 (2) Violation of ORS 59.915 (2) is a Class A misdemeanor.

26 **SECTION 17.** ORS 725.230 is amended to read:

27 725.230. (1) The Director of the Department of Consumer and Business Services may revoke  
 28 [*any*] **a** license under this chapter upon 10 days’ notice to the licensee stating the contemplated  
 29 action and in general the grounds therefor and upon reasonable opportunity for a hearing in con-  
 30 nection therewith, if the director finds that:

31 (a) The licensee has failed to pay the annual license fee or to comply with [*any*] **a** demand, rul-  
 32 ing or requirement of the director made pursuant to this chapter or to comply with the provisions  
 33 of law to keep the corporation in good standing if [*such*] **the** licensee is a corporation;

34 (b) The licensee has violated any provisions of this chapter or [*any*] **a** rule made by the director  
 35 under the authority of this chapter; or

36 (c) [*Any*] **A** fact or condition exists which, if [*it*] **the fact or condition** had existed at the time  
 37 of the original application for [*such*] **the** license, clearly would have warranted the [*director in re-*  
 38 *fusing originally*] **director’s original refusal** to issue the license.

39 (2) **If the licensee employs a loan originator, as defined in ORS 59.840, the director may**  
 40 **revoke a license in the manner provided in subsection (1) of this section if the director finds**  
 41 **that the licensee failed to:**

42 (a) **File a corporate surety bond or irrevocable letter of credit required under ORS 59.850;**

43 (b) **Ensure that a loan originator employed by the licensee met the requirements set**  
 44 **forth in ORS 59.970 and 59.972; or**

45 (c) **Comply with applicable provisions of ORS 59.865.**

1        [(2)] (3) The director, without notice or hearing, may suspend *[any]* a license for a period not  
2 exceeding 30 days, pending investigation.

3        [(3)] (4) The director may revoke or suspend only the particular license with respect to which  
4 grounds for revocation or suspension may occur or exist, or, if the director finds that *[such]* **the**  
5 grounds for revocation or suspension are of general application to all offices or to more than one  
6 office operated by a licensee, the director may revoke or suspend all the licenses or such number  
7 of licenses issued to the licensee as the grounds for revocation or suspension apply to, as the case  
8 may be.

9        **SECTION 18.** (1) **ORS 59.977 is repealed.**

10        (2) **Section 7, chapter 526, Oregon Laws 2003, as amended by section 42, chapter 22,**  
11 **Oregon Laws 2005, is repealed.**

12        **SECTION 19.** (1) **The amendments to ORS 59.840, 59.845, 59.850, 59.860, 59.865, 59.875,**  
13 **59.880, 59.900, 59.905, 59.945, 59.962, 59.969, 59.970, 59.971, 59.972, 59.973, 59.975, 59.992 and**  
14 **725.230 by sections 1 to 17 of this 2009 Act and the repeal of ORS 59.977 and section 7, chapter**  
15 **526, Oregon Laws 2003, by section 18 of this 2009 Act become operative on January 1, 2010.**

16        (2) **The Director of the Department of Consumer and Business Services may take any**  
17 **action before January 1, 2010, that is necessary to enable the director to exercise, on and**  
18 **after January 1, 2010, all of the duties, functions and powers conferred on the director by the**  
19 **amendments to ORS 59.840, 59.845, 59.850, 59.860, 59.865, 59.875, 59.880, 59.900, 59.905, 59.945,**  
20 **59.962, 59.969, 59.970, 59.971, 59.972, 59.973, 59.975, 59.992 and 725.230 by sections 1 to 17 of this**  
21 **2009 Act and the repeal of ORS 59.977 and section 7, chapter 526, Oregon Laws 2003, by sec-**  
22 **tion 18 of this 2009 Act.**

23        **SECTION 20.** **This 2009 Act being necessary for the immediate preservation of the public**  
24 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
25 **on its passage.**

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