

Enrolled House Bill 2856

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to licensing requirements for mortgage loan originators; creating new provisions; amending ORS 86A.203; and declaring an emergency.

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

SECTION 1. ORS 86A.203 is amended to read:

86A.203. (1) Except as provided in subsection (2) of this section, an individual may not engage in business as a mortgage loan originator in this state without first:

(a) Obtaining and maintaining a mortgage loan originator's license under ORS 86A.212 or renewing a mortgage loan originator's license under ORS 86A.218; and

(b) Obtaining a unique identifier from the Nationwide Mortgage Licensing System and Registry.

(2) Subsection (1) of this section does not apply to:

(a) A registered mortgage loan originator who acts within the scope of the registered mortgage loan originator's employment;

(b) An individual who offers or negotiates terms of a residential mortgage loan with or on behalf of the individual's spouse, child, sibling, parent, grandparent, grandchild or a relative in a similar relationship with the individual that is created by law, marriage or adoption;

(c) An individual who offers or negotiates terms of a residential mortgage loan that is secured by a dwelling that served as the individual's residence; [or]

(d) An individual who, as a seller during any 12-month period, offers or negotiates terms for not more than three residential mortgage loans that are secured by a dwelling unit that did not serve as the individual's residence, unless the United States Consumer Financial Protection Bureau expressly determines, on or after the effective date of this 2013 Act, that the definition of loan originator in section 1503 of Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, includes an individual whose activities are described in this paragraph; or

[*d*] (e) An attorney licensed or otherwise authorized to practice law in this state if the attorney:

(A) Negotiates the terms of a residential mortgage loan as an ancillary matter in the attorney's representation of a client; and

(B) Does not receive compensation from a mortgage banker, mortgage broker, mortgage loan originator or lender or an agent of the mortgage banker, mortgage broker, mortgage loan originator or lender.

(3) An individual who offers or negotiates terms for a residential mortgage loan, and who claims an exemption under subsection (2)(c) or (d) of this section from the requirements set

forth in subsection (1) of this section, may not at any time hold more than eight residential mortgage loans without meeting the requirements set forth in subsection (1) of this section.

[(3)] (4) The director by rule may exempt a person from the requirement to obtain a mortgage loan originator's license under ORS 86A.200 to 86A.239 if the United States [Department of Housing and Urban Development] **Consumer Financial Protection Bureau** requires or permits the exemption under 12 U.S.C. 5101 et seq.

[(4)(a)] (5)(a) Except as provided in paragraph (b) of this subsection, an employee of a dealer, as defined in ORS 446.003, is not subject to the provisions of ORS 86A.200 to 86A.239 if the employee:

(A) Performs only administrative or clerical tasks; and

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

(b) An employee of a dealer is subject to the provisions of ORS 86A.200 to 86A.239 if the United States [Department of Housing and Urban Development] **Consumer Financial Protection Bureau** in a guideline, rule, regulation or interpretive letter determines that the exemption granted in paragraph (a) of this subsection is inconsistent with requirements set forth in 12 U.S.C. 5101 et seq.

SECTION 2. (1) The amendments to ORS 86A.203 by section 1 of this 2013 Act become operative 91 days after the effective date of this 2013 Act.

(2) The Director of the Department of Consumer and Business Services may take any action before the operative date specified in subsection (1) of this section that is necessary to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the director by the amendments to ORS 86A.203 by section 1 of this 2013 Act.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House April 8, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 22, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State