

**REVENUE:**

**FISCAL:**

**SUBSEQUENT REFERRAL TO:**

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**Action:**

**Vote:**

**Yeas:**

**Nays:**

**Exc.:**

**Prepared By:** James LaBar, Administrator

**Meeting Dates:** 4/15, 4/20

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**WHAT THE MEASURE DOES:** Exempts attorneys and real estate licensees from requirement to obtain mortgage loan originator's license in order to perform activities of mortgage loan originator. Specifies that residential mortgage loan is loan for personal, family or household purposes that is secured by mortgage, trust deed or equivalent consensual security interest on dwelling or residential real property upon which dwelling is or is intended to be constructed.

**ISSUES DISCUSSED:**

**EFFECT OF COMMITTEE AMENDMENT:**

(-2 amendment) Clarify a loan made for investment purpose is exempt from mortgage lender law and that a loan secured by a single coop or condo unit within a structure containing more than four units remains subject to mortgage lender law. Deletes redundant provisions dealing with professional attorney conduct. Additional clarifying modifications.

(-3 amendment) Align Oregon statutes with federal rules, including allowing seller financing to be carried by a Limited Liability Company.

(-4 amendment) Replaces original measure. Exempts attorneys that negotiate the terms of residential mortgage loan in the attorney's representation of a client that buys or sells a dwelling unit.

**BACKGROUND:** The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the "Federal S.A.F.E. ACT") was passed to create a national registry of licensed mortgage loan originators. This legislation required states to pass their own licensing legislation requiring national registration of mortgage loan originators or have them become subject to federal registration. The State of Oregon, along with all other states and territories, responded with its own legislation amending and conforming the Oregon Mortgage Lender Law. SB 879 amends the Oregon Mortgage Lender Law allowing attorneys to more fully advise clients in private lending transactions without licensing.

Seller carried private financing can be critical in economic downturns and such financing requires involvement of real estate agents to present the offer and attorneys to advise on the terms of the financing and to draft the agreements. The Oregon Mortgage Lender Law already exempts real estate agents from licensing under certain circumstances. SB 879 allows attorneys to function within the full extent of the federal law. This will permit attorneys to assist clients with financing provided they operate within the ethical confines of the Oregon Bar.

Additionally, the federal S.A.F.E. Act required mortgage loan originator licensing for loans used for personal or household purposes and secured by 1-4 family residential properties intended for occupancy by the borrower. The Oregon Mortgage Lender Law currently requires licensing for lending secured by all 1-4 family residential properties, including loans for investment purposes on collateral intended as rental property. SB 879 narrows the definition under Oregon law to exclude from licensing requirements loans intended for investment purposes on properties not intended for occupancy by borrowers.

4/17/2015 10:15:00 AM \*

***This summary has not been adopted or officially endorsed by action of the committee.***

Finally, for clarity, SB 879 updates the Oregon Mortgage Lender Law's grammar and citations to federal regulations. The Bureau of Consumer Financial Protection re-codified regulations when, under the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010, it became responsible for promulgation of regulations under the Real Estate Settlement Procedures Act, the Truth-In-Lending Act and other federal consumer finance laws.