

House Bill 3185

Sponsored by Representative KENNEMER

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**.

Exempts from requirement to obtain mortgage loan originator's license corporations, governments, governmental subdivisions or agencies, trusts, estates, partnerships, cooperatives or associations that, as sellers during any 12-month period, offer or negotiate terms for not more than three residential mortgage loans.

Becomes operative 91 days after effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to requirements for obtaining a mortgage loan originator's license; creating new provisions;
3 amending ORS 86A.203; and declaring an emergency.

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

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

6 86A.203. (1) Except as provided in subsection (2) of this section, an individual may not engage
7 in business as a mortgage loan originator in this state without first:

8 (a) Obtaining and maintaining a mortgage loan originator's license under ORS 86A.212 or re-
9 newing a mortgage loan originator's license under ORS 86A.218; and

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

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

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

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

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

19 (d) An individual, **corporation, government, governmental subdivision or agency, trust,**
20 **estate, partnership, cooperative or association that** [*who*], as a seller during any 12-month pe-
21 riod, offers or negotiates terms for not more than three residential mortgage loans that are secured
22 by a dwelling unit that, **if the seller is an individual**, did not serve as the individual's residence[,
23 *unless the United States Consumer Financial Protection Bureau expressly determines, on or after June*
24 *4, 2013, that the definition of loan originator in section 1503 of Title V of the Housing and Economic*
25 *Recovery Act of 2008, P.L. 110-289, includes an individual whose activities are described in this para-*
26 *graph*]; or

27 (e) An attorney licensed or otherwise authorized to practice law in this state if the attorney:

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

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

4 (f) An individual who is licensed as a manufactured structure dealer under ORS 446.691 and
 5 who:

6 (A) Offers or negotiates terms of a residential mortgage loan related to a sale for occupancy of
 7 a previously owned manufactured dwelling in a manufactured dwelling park three or fewer times in
 8 any 12-month period; and

9 (B) Uses a written sale agreement form with the purchaser that complies with the requirements
 10 of ORS 646A.050, 646A.052 and 646A.054, with any rules adopted under ORS 646A.050, 646A.052 and
 11 646A.054 and with any other applicable requirements for residential mortgages for manufactured
 12 dwellings; or

13 (g) An individual who is licensed as a limited manufactured structure dealer under ORS 446.706
 14 and who:

15 (A) Has an ownership interest in a manufactured dwelling park;

16 (B) Offers or negotiates terms of a residential mortgage loan related to a sale for occupancy of
 17 a previously owned manufactured dwelling in any manufactured dwelling park in which the indi-
 18 vidual has an ownership interest, five or fewer times in any 12-month period; and

19 (C) Uses a written sale agreement form with the purchaser that complies with the requirements
 20 of ORS 646A.050, 646A.052 and 646A.054, with any rules adopted under ORS 646A.050, 646A.052 and
 21 646A.054 and with any other applicable requirements for residential mortgages for manufactured
 22 dwellings.

23 (3) An individual who offers or negotiates terms for a residential mortgage loan, and who claims
 24 an exemption under subsection (2)(c), (d) or (f) of this section from the requirements set forth in
 25 subsection (1) of this section, may not at any time hold more than eight residential mortgage loans
 26 without meeting the requirements set forth in subsection (1) of this section.

27 (4) An individual who offers or negotiates terms for a residential mortgage loan, and who claims
 28 an exemption under subsection (2)(g) of this section from the requirements set forth in subsection
 29 (1) of this section, may not at any time hold more than 12 residential mortgage loans without
 30 meeting the requirements set forth in subsection (1) of this section.

31 (5) The Director of the Department of Consumer and Business Services by rule may exempt an
 32 individual from the requirement to obtain a mortgage loan originator's license under ORS 86A.200
 33 to 86A.239 if the United States Consumer Financial Protection Bureau requires or permits the ex-
 34 emption under 12 U.S.C. 5101 et seq.

35 (6) Notwithstanding the exemption from licensing for an individual described in subsection (2)(f)
 36 or (g) of this section, subsection (1) of this section applies to the individual if the United States
 37 Consumer Financial Protection Bureau determines, in a guideline, rule, regulation or interpretive
 38 letter, that the exemption is inconsistent with requirements set forth in 12 U.S.C. 5101 et seq.

39 (7)(a) Except as provided in paragraph (b) of this subsection, an employee of a manufactured
 40 structure dealer licensed under ORS 446.691 is not subject to the provisions of ORS 86A.200 to
 41 86A.239 if the employee:

42 (A) Performs only administrative or clerical tasks; and

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

1 (b) An employee of a dealer is subject to the provisions of ORS 86A.200 to 86A.239 if the United
2 States Consumer Financial Protection Bureau determines, in a guideline, rule, regulation or inter-
3 pretive letter, that the exemption granted in paragraph (a) of this subsection is inconsistent with
4 requirements set forth in 12 U.S.C. 5101 et seq.

5 **SECTION 2. (1) The amendments to ORS 86A.203 by section 1 of this 2015 Act become**
6 **operative 91 days after the effective date of this 2015 Act.**

7 **(2) The Director of the Department of Consumer and Business Services may adopt rules**
8 **and take any other action before the operative date specified in subsection (1) of this section**
9 **that is necessary to enable the director, on and after the operative date specified in sub-**
10 **section (1) of this section, to exercise all of the duties, functions and powers conferred on**
11 **the director by the amendments to ORS 86A.203 by section 1 of this 2015 Act.**

12 **SECTION 3. This 2015 Act being necessary for the immediate preservation of the public**
13 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
14 **on its passage.**