

A-Engrossed
Senate Bill 879

Ordered by the Senate April 28
Including Senate Amendments dated April 28

Sponsored by Senator PROZANSKI (at the request of Dean Kaufman)

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.

Exempts *[attorneys and real estate licensees]* **attorney who negotiates terms of residential mortgage loan in attorney's representation of client that buys or sells dwelling unit** 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.]*

A BILL FOR AN ACT

1
2 Relating to mortgage loan origination; amending ORS 86A.203.

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

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

5 86A.203. (1) Except as provided in subsection (2) of this section, an individual may not engage
6 in business as a mortgage loan originator in this state without first:

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

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

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

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

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

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

18 (d) An individual who, as a seller during any 12-month period, offers or negotiates terms for not
19 more than three residential mortgage loans that are secured by a dwelling unit that did not serve
20 as the individual's residence, unless the United States Consumer Financial Protection Bureau ex-
21 pressly determines, on or after June 4, 2013, that the definition of loan originator in section 1503
22 of Title V of the Housing and Economic Recovery Act of 2008, P.L. 110-289, includes an individual
23 whose activities are described in this paragraph;

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

25 (A) Negotiates the terms of a residential mortgage loan *[as an ancillary matter]* in the attorney's
26 representation of a client **that buys or sells a dwelling unit**; 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.

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