

B-Engrossed
Senate Bill 879

Ordered by the House June 10
Including Senate Amendments dated April 28 and House Amendments
dated June 10

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 individual from requirement to obtain mortgage loan originator's license if individual as seller during any 12-month period offers or negotiates terms for not more than three residential mortgage loans that are secured by dwelling unit that individual owns or that limited liability company of which individual is member owns and that did not serve as individual's residence if membership in limited liability company consists only of individual and individual's relatives, if individual and limited liability company do not advertise that limited liability company engages in business of making residential mortgage loans and if individual complies with other requirements.

Exempts from requirement to obtain mortgage loan originator's license to perform activities of mortgage loan originator 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*].

A BILL FOR AN ACT

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

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;

[(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 June 4, 2013, 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 activ-

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.

ities are described in this paragraph;]

[(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;]

(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 the individual owns, or that a limited liability company of which the individual is a member owns, and that did not serve as the individual's residence, if:

(A) Membership in the limited liability company that owns the dwelling unit consists only of the individual or of the individual and the individual's spouse, children, siblings, parents, grandparents, grandchildren or other relatives who are related to the individual by law, marriage or adoption;

(B) The individual or the limited liability company does not advertise that, or otherwise suggest by statements or conduct that, the limited liability company engages in the business of making residential mortgage loans;

(C) The individual complies with the provisions of subsection (3) of this section; and

(D) The individual does not engage in conduct that is prohibited under ORS 86A.224 or 86A.236;

(e) An attorney who is licensed or otherwise authorized to practice law in this state, if the attorney negotiates the terms of a residential mortgage loan in representing a client and 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, except that for the purposes of determining whether the attorney is exempt under this paragraph, the attorney does not receive compensation from a mortgage loan originator or lender if the attorney receives compensation from a client that would otherwise meet the definition of a mortgage loan originator or lender but is exempt under paragraph (c), (d) or (f) of this subsection;

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

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

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

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

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

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

1 (C) Uses a written sale agreement form with the purchaser that complies with the requirements
2 of ORS 646A.050, 646A.052 and 646A.054, with any rules adopted under ORS 646A.050, 646A.052 and
3 646A.054 and with any other applicable requirements for residential mortgages for manufactured
4 dwellings.

5 (3) An individual who offers or negotiates terms for a residential mortgage loan, and who claims
6 an exemption under subsection (2)(c), (d) or (f) of this section from the requirements set forth in
7 subsection (1) of this section, may not at any time hold more than eight residential mortgage loans
8 without meeting the requirements set forth in subsection (1) of this section. **For the purposes of**
9 **a determination under this subsection as to whether an individual who claims an exemption**
10 **under subsection (2)(d) of this section holds more or fewer than eight residential mortgage**
11 **loans, the individual shall disclose to the Director of the Department of Consumer and**
12 **Business Services all loans that all limited liability companies of which the individual is a**
13 **member hold in the aggregate.**

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

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

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

26 (7)(a) Except as provided in paragraph (b) of this subsection, an employee of a manufactured
27 structure dealer licensed under ORS 446.691 is not subject to the provisions of ORS 86A.200 to
28 86A.239 if the employee:

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

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

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

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