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PERMANENT ADMINISTRATIVE RULES

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I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the
Department of Consumer and Business Services, Finance and Securities Regulation 441
Agency and Division Administrative Rules Chapter Number
Shelley Greiner (503) 947-7484
Rules Coordinator Telephone
350 Winter St. NE, Rm. 410, Salem, OR 97301
Address

To become effective Upon filing, Rulemaking Notice was published in the August 2016 Oregon Bulletin.

RULE CAPTION

Commercial Construction Lending Exemption to Mortgage Loan Originator Licensing Requirements

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

441-880-0009

AMEND:

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 86A.242

Other Authority:

Statutes Implemented:

ORS 86A.203

RULE SUMMARY

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act), 12 U.S.C. § 5101 et seq., requires states to license "loan originators" who are individuals that take a residential mortgage loan application and offer or negotiate terms of a "residential mortgage loan" for compensation or gain. The S.A.F.E. Act defines "residential mortgage loan" as "any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling... or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined)."

To carry out the S.A.F.E. Act, ORS 86A.203 requires individuals engaged in business as a mortgage loan originator to obtain a license from DCBS. Subsection (5) grants authority to the DCBS Director to exempt an individual from the licensing requirement if the U.S. Consumer Financial Protection Bureau permits the exemption under 12 U.S.C. § 5101 et seq. Federal law only requires licensing for individual who deal in loans primarily for personal, family, or household use. This rule exempts lenders who make commercial construction loans from this licensing requirement under certain circumstances. To qualify for the exemption under this rule, a lender would have to verify that the borrower is a licensed general contractor, verify that the loan is for a business purpose and will be used to construct a residential structure, and refrain from certain other prohibited activities.



Shelley Greiner shelley.a.greiner@oregon.gov
Rules Coordinator Name Email Address