

Secretary of State  
**NOTICE OF PROPOSED RULEMAKING HEARING\***  
A Statement of Need and Fiscal Impact accompanies this form

**FILED**  
7-15-16 10:27 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

Department of Consumer and Business Services, Finance and Securities Regulation  
Agency and Division

441

Administrative Rules Chapter Number

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Rules Coordinator

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**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.

Hearing Date	Time	Location	Hearings Officer
8-22-16	9:00 a.m.	Labor and Industries Bldg; Conf. Rm. E; 350 Winter St. NE; Salem, OR	Alex Cheng

**RULEMAKING ACTION**

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

**ADOPT:**

441-880-0010

**AMEND:**

**REPEAL:**

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

**AMEND AND RENUMBER:** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**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 proposed rule would exempt 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.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

08-29-2016 5:00 p.m.

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Last Day (*m/d/yyyy*) and Time  
for public comment

Rules Coordinator Name

Email Address

\*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.