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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, Division of Finance and Corporate Securities 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 01/01/2016 Rulemaking Notice was published in the November 2015 Oregon Bulletin.

RULE CAPTION

Exempts owner of certain limited liability companies from licensing as a mortgage loan originator.

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:

441-855-0114

AMEND:

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 86A.100

Other Authority:

2015 Or Laws ch 677 (Enrolled Senate Bill 879)

Statutes Implemented:

ORS 86A.100, 86A.203



RULE SUMMARY

In the 2013 session, the Legislature enacted House Bill 2856. That Act provided for a limited exemption from the mortgage loan originator statutes for individuals making loans on properties they owned for investment purposes. The intent of HB 2856 was to facilitate lending by individuals not necessarily in the business of making mortgage loans, but that extended credit as part a more diversified, personal investment portfolio. The 2013 Act did not make accommodations for the individual to own the properties through limited liability companies (LLCs). In the 2015 session, the Legislature passed SB 879 to allow members of limited liability companies the ability to make loans on homes owned by the LLC without a mortgage loan originator license. This authorization raised concerns that the LLCs would need a license as a mortgage banker or mortgage broker in order to operate. This rulemaking activity clarifies that certain LLCs are exempt from the business licensing side of the Oregon Mortgage Lender Law (ORS 86A.100-86A.198), as long as certain conditions are met.

Shelley Greiner

Rules Coordinator Name

shelley.a.greiner@oregon.gov

Email Address

DIVISION 855
LICENSING EXEMPTIONS FOR MORTGAGE BANKERS AND MORTGAGE BROKERS

441-855-0114

Limited Liability Companies Holding Mortgages, Deeds of Trust or Other Consensual Security Interests

(1) A limited liability company whose member claims an exemption from licensing as a mortgage loan originator under ORS 86A.203(2)(d) is exempt from licensing with the Director of the Department of Consumer and Business Services as a mortgage banker or mortgage broker, if the limited liability company:

(a) Limits membership in the limited liability company to 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 legal adoption.

(b) Treats any mortgages, deeds of trust or equivalent consensual security interests secured by properties owned by the limited liability company or any of its members as included when determining if the limited liability company complies with this rule, or if the individual complies with ORS 86A.203(2)(d). In no case may a limited liability company exempt under this rule, or individual members collectively, hold more than eight mortgages, deeds of trust or equivalent consensual security interests secured by properties the limited liability company owns while claiming the exemption in this rule.

(c)(A) Discloses to the Director of the Department of Consumer and Business Services all members of the limited liability company, all the interests the members hold in other limited liability companies that are exempt under this rule, and all the properties owned by the limited liability company securing mortgages, deeds of trust or other consensual security interests made by the limited liability company or by its members.

(B) The limited liability company shall submit an updated disclosure within 30 days of a change of control or ownership of the limited liability company.

(C) The director may request mortgage loan documents in order to assist the director in making a determination under this section.

(d) Certifies that all of the members subject to subsection (c) of this section otherwise meet the requisite findings as a mortgage loan originator under ORS 86A.212(b), (c) and (d).

(e) Does not advertise or otherwise hold itself out as being engaged in the activities of a mortgage banker or mortgage broker.

(2)(a) The exemption in this rule may not be claimed unless the limited liability company requests the exemption on a form supplied by the director and provides the information required to be submitted in section (1) of this rule.

(b) The director must make a determination as to whether to approve, deny or condition an exemption under this rule within 30 days of receipt of the form and information. If the director does not act within 30 days upon an exemption application under this rule, the limited liability company may rely on the exemption.

(c) Notwithstanding subsection (a) of this section, the exemption described by this rule may not be claimed if any individual member has engaged in, is engaged in or is about to engage in conduct prohibited under ORS 86A.224 or ORS 896A.236.

Stat. Auth.: ORS 86A.100

Stat. Implemented: ORS 86A.100, 86A.203, 2015 Or Laws ch 677, § 1 (Enrolled SB 879)

Hist.: New.