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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, Division of Finance and Corporate Securities 441  
Agency and Division Administrative Rules Chapter Number  
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To become effective Upon filing, Rulemaking Notice was published in the November 2015 Oregon Bulletin.

**RULE CAPTION**

Updates mortgage lending rules to comply with Federal mortgage disclosure 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:**

**AMEND:**

441-865-0060

**REPEAL:**

**RENUMBER:**

**AMEND AND RENUMBER:**

**Statutory Authority:**

ORS 86A.112 and 86A.136

**Other Authority:**

12 C.F.R Parts 1024 and 1026; 80 Fed. Reg. 43911

**Statutes Implemented:**

ORS 86A.112



**RULE SUMMARY**

Under Oregon law, licensed mortgage bankers and mortgage brokers must maintain certain records created as part of the loan application process. The purpose of the existing recordkeeping rule is to preserve records of loan transactions to assist the department in performing full and fair examinations of licensed mortgage bankers and mortgage brokers. In addition to applications, correspondence, credit reports and fee agreements, Oregon rules specified that the lender or broker keep a copy of completed federally-mandated disclosures (e.g., the Truth in Lending Disclosure Statement). But since 2011, federal law has mandated that the Consumer Financial Protection Bureau (Bureau) establish a single disclosure scheme for use by lenders or creditors in complying with the disclosure requirements of both the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA). The Bureau issued its final rule combining the disclosures on November 20, 2013, effective October 3, 2015. This rulemaking simply updates the recordkeeping requirement to accommodate the changes to federally-mandated disclosures.

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## 441-865-0060

### Residential Borrower Files

(1) In addition to the books and records required under the provisions of OAR 441-865-0010 to 441-865-0090, a mortgage banker or mortgage broker that takes an application for a residential mortgage transaction must prepare and maintain the following:

(a) A copy of each executed loan application form, including the unique identifier of the mortgage loan originator that took the residential mortgage loan application and offered to negotiate or negotiated the terms of the loan, which must have both the signatures of the borrower and mortgage loan originator;

(b) A copy of each executed fee agreement, if prepared;

(c) In the case of residential or single family loans, a borrower acknowledged statement that a loan interest rate will float or a copy of the executed lock agreement. The lock agreement shall specify at a minimum the:

(A) Date of the agreement;

(B) File identification, and property address;

(C) Lock-in rate and expiration date;

(D) Disclosure that the lock may be subject to change if any of the loan factors change and disclosure that if the lock expires, the rate and points are subject to change; and

(E) The term of the loan.

(d) A copy of all correspondence with the borrower in writing or in a format easily converted to writing;

(e) A copy of any documents noting approval or denial of a borrower's mortgage loan application;

(f) A copy of all documents submitted by a borrower to the mortgage banker or mortgage broker in connection with the loan application;

(g) If required to be prepared for the residential mortgage transaction, a copy of the good faith estimate required by Regulation X, 12 C.F.R. Part 1024, and translated as applicable to comply with 86A.198;

(h) A copy of the executed Authorization to Release Credit Information Form;

(i) Copies of every credit report accessed by the mortgage banker or mortgage broker in connection with the transaction;

(j) If required to be prepared for the residential mortgage transaction, a copy of any disclosure required by Regulation Z, 12 C.F.R. Part 1026 and translated as applicable to comply with ORS 86A.198, including, but not limited to, the Truth in Lending disclosure statement, the Loan Estimate and the Closing Disclosure Statement. A copy of the completed, translated Loan Estimate and Closing Disclosure provided to the borrower as required by Regulation Z, 12 C.F.R. Part 1026 and maintained in the borrower file will comply with the requirement in ORS 86A.198 to provide a translated good faith estimate and Truth in Lending Disclosure; and

(k) If required to be prepared for the residential mortgage transaction, a copy of the final HUD-1 settlement statement required by 12 C.F.R. Part 1024.

(2) In addition to the books and records required under the provisions of section (1) of this rule and OAR 441-865-0010 to 441-865-0090, a mortgage banker that funds a residential mortgage transaction must also prepare and maintain the following in the loan file:

(a) A summary of information on the loan funding program parameters required for the loan's key terms;

(b) A copy of each executed loan application form, including on the form the unique identifier of the mortgage loan originator that took the residential mortgage loan application and offered to negotiate or negotiated the terms of the loan, which must have both the signatures of the borrower and mortgage loan originator;

(c) A copy of all documentation relied upon in making the loan decision;

(d) A copy of the borrower executed note and executed trust deed;

(e) If required to be prepared for the residential mortgage transaction, a copy of the good faith estimate prepared under Regulation X, 12 C.F.R. Part 1024 and translated as applicable to comply with ORS 86A.198;

(f) A copy of the every credit report accessed by the mortgage banker or mortgage broker in connection with the transaction;

(g) If required to be prepared for the residential mortgage transaction, a copy of any disclosure required by Regulation Z, 12 C.F.R. Part 1026 and translated as applicable to comply with ORS 86A.198, including, but not limited to, the Truth in Lending disclosure statement, the Loan Estimate and the Closing Disclosure Statement. A copy of the completed, translated Loan Estimate and Closing Disclosure provided to the borrower as required by Regulation Z, 12 C.F.R. Part 1026 and maintained in the borrower file will comply with the requirement in ORS 86A.198 to provide a translated good faith estimate and Truth in Lending Disclosure;

(h) If required to be prepared for the residential mortgage transaction, a copy of the final HUD-1 settlement statement required by 12 C.F.R. Part 1024; and

(i) A copy of the statement that notifies the borrower that loan documents associated with the transaction will be in English and that advises the borrower to obtain appropriate assistance, with any necessary translations as required by ORS 86A.198.

(3) A mortgage broker that closes a residential mortgage loan in the name of the broker shall retain the records required in Sections (1) and (2) of this rule.

(4) If the loan is funded by an investor other than persons enumerated in ORS 59.035(4) or (5), the mortgage banker or mortgage broker must comply with the records requirements under OAR 441-865-0080.

Stat. Auth.: ORS 86A.112 & 86A.136

Stats. Implemented: ORS 86A.112

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. &

cert. ef. 12-23-99; FCS 7-2001, f. & cert. ef. 8-1-01; FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 4-2012, f. & cert. ef 8-1-12