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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 441
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
FINANCE AND SECURITIES REGULATION

FILED

10/28/2020 12:21 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Disclosure Consumer Complaint Notice

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/30/2020 5:00 PM

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.

CONTACT: Karen Winkel
503-947-7694
karen.j.winkel@oregon.gov

350 Winter Street NE
Salem, OR 97301

Filed By:
Karen Winkel
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/23/2020

TIME: 3:30 PM

OFFICER: Sofia Parra

ADDRESS: Labor & Industries Building

350 Winter Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Conference call only due to COVID-19.

Dial-in: 877-873-8017

Access code: 1919 441#

In case of technical issues, call
Karen Winkel at 971-345-1108.

NEED FOR THE RULE(S):

The need for the proposed amendment to OAR 441-890-0070 is twofold: first, the amendment is needed to clarify the scope of the jurisdiction of the Department of Consumer and Business Services (DCBS) over Oregon licensed residential mortgage servicers and persons required to satisfy the licensing requirement contained in ORS 86A.300 to

86A.339; and second, the amendment is needed to clarify that borrowers are to contact their residential mortgage loan servicers if borrowers have questions concerning statements and notices and to contact the Division of Financial Regulation (DFR) on behalf of the department if borrowers have complaints about unlawful conduct.

ORS 86A.324(1)(i) requires a "person that services a residential mortgage loan" include in all statements and notices mailed or sent to the borrower "contact information for the Department of Consumer and Business Services and clearly state how the borrower may contact the department if the conduct of the person is unlawful." This requirement applies to all licensees and persons required to have a license under ORS 86A.306. ORS 86A.303(7) defines "licensee" as "a person that has applied for and obtained or renewed a license from the director of the Department of Consumer and Business Services to engage in business as a residential mortgage loan servicer in this state." Similarly, ORS 86A.303(2) defines "applicant" as "a person that applies for a license to engage in business as a residential mortgage loan servicer in this state." The term "in this state" is not statutorily defined.

Additionally, the current rule requires the contact information for DCBS and does not explain that borrowers should contact the division concerning unlawful conduct by a licensee or a person required to have a license under ORS 86A.306. Because the current rule only requires the contact information for the division and does not reflect the statutory mandate regarding unlawful conduct, the division receives numerous calls from borrowers concerning questions about statements and notices that do not involve unlawful conduct.

The volume of calls from consumers that do not involve unlawful conduct are numerous and require the division to refer borrowers to their servicers to answer questions regarding the statements and notices sent by licensees. This lack of clarity regarding who to contact and when has caused widespread confusion among borrowers.

The rule advisory committee had 4 individuals associated with the mortgage servicing industry. None were small businesses, which are difficult to find in the mortgage servicing industry and would generally not be required to be licensed by the division.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

FISCAL AND ECONOMIC IMPACT:

DCBS does expect the amendment to the proposed rule to have a fiscal and economic impact on public entities. Other state agencies and local governments are not required to respond to questions regarding unlawful conduct by residential mortgage loan servicers under ORS 86A.300 to 86A.339. DCBS is not expected to incur any fiscal impact as a result of the amendment to the rule because it simply clarifies the division's regulatory oversight as mandated by ORS 86A.324(1)(i).

There is expected to be a small one-time fiscal impact on mortgage servicers or those who provide their notices to update the language for Oregon.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) DCBS does expect the amendment to the proposed rule to have a fiscal and economic impact on public entities. Other state agencies and local governments are not required to respond to questions regarding unlawful conduct by residential mortgage loan servicers under ORS 86A.300 to 86A.339. DCBS is not expected to incur any fiscal impact as a result of the amendment to the rule because it simply clarifies the division's regulatory oversight as mandated by ORS 86A.324(1)(i).

(2)(a) The division estimates that there are no licensed residential mortgage loan servicers who employ 50 or fewer employees; therefore, the definition of "small business" contained in ORS 183.310 does not apply to the cost of compliance for small businesses.

(2)(b) Because there are no licensed residential mortgage loan servicers who employ 50 or fewer employees, the proposed amendment to the rule will not affect the reporting, recordkeeping and administrative activities for small businesses.

(2)(c) Because there are no licensed residential mortgage loan servicers who employ 50 or fewer employees, the proposed amendment to the rule will not affect of professional services, equipment supplies, labor and increased administration for small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Because there are no licensed residential mortgage loan servicers who employ 50 or fewer employees, small businesses were not involved in the development of the rule.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 441-890-0070

RULE SUMMARY: Clarifies the regulatory authority of the department over residential mortgage loan servicers and contact information required under the rule.

CHANGES TO RULE:

441-890-0070

Disclosure of Consumer Complaint Submissions to Department of Consumer and Business Services

~~Each (1) After March 31, 2021, each periodic mortgage statement and each notice sent to a borrower after January 1, 2019, must include the following text: "By a licensee or a person required to have a license under ORS 86A.303 to 86A.339, must include the following text: ¶~~

"Borrowers: The Oregon Division of Financial Regulation (DFR) on behalf of the Department of Consumer and Business Services oversees residential mortgage loan servicers who are regulated by the Oregon Division of Financial Regulation. To file a complaint, call (866) 814-9710 responsible for servicing residential mortgage loans in connection with real property located in Oregon and persons required to have a license to service residential

mortgage loans under Oregon law. If you have questions regarding your residential mortgage loan, contact your servicer at {servicer's toll-free phone number and email, if applicable}. To file a complaint about unlawful conduct by an Oregon licensee or a person required to have an Oregon license, call DFR at (888) 877-4894 or visit <https://dfr.oregon.gov>."¶

(2) The contact information for the residential mortgage loan servicer must be printed in at least the same point type as the contact information for the Oregon Division of Financial Regulation.

Statutory/Other Authority: ~~2017 Or Laws ch 636~~ ~~¶~~ ~~9~~ ORS 86A.324

Statutes/Other Implemented: ~~2017 Or Laws ch 636~~ ~~¶~~ ~~9~~ ORS 86A.321(1)