

OFFICE OF THE SECRETARY OF STATE

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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

01/30/2023 2:26 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: To increase the threshold amount from \$250,000 to \$400,000 for OREO appraisals.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/01/2023 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
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350 Winter St. 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: 02/22/2023

TIME: 1:30 PM - 2:00 PM

OFFICER: Teddy Badege/Lauren Winters

HEARING LOCATION

ADDRESS: Labor and Industries Building, 350 Winter St. NE, Salem, OR 97301

SPECIAL INSTRUCTIONS:

This is a hybrid meeting conducted in-person and virtually via Microsoft TEAMS:

Meeting ID: 230 958 234 941

Passcode: E7pmCx

Or call in (audio only)

+1 503-446-4951,,908848803# United States, Portland

Phone Conference ID: 908 848 803#

NEED FOR THE RULE(S)

Background and History:

In 2016 to conform with federal rules, the division amended OAR 441-505-3030 to allow Oregon chartered commercial banks to use evaluations rather than appraisals for the following: transactions in which the loan amount is \$250,000 or less; certain renewals, refinances, or other transactions involving existing extensions of credit; and real estate-secured business loans in which the transaction value is \$1,000,000 or less and the sale of, or rental income derived from, real estate is not the primary source of repayment for the loan.

In 2019, the FDIC, the Federal Reserve, and the Office of the OCC jointly issued an amended rule (Appraisal Rule) that increases the threshold for residential real estate transactions requiring an appraisal from \$250,000 to \$400,000. For

transactions exempted by the \$400,000 threshold, the Appraisal Rule requires an evaluation. The Appraisal Rule also incorporates the appraisal exemption for rural residential properties provided by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRCCPA) and requires evaluations for these exempt transactions. In addition, the Appraisal Rule requires appraisals for federally related transactions to be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).

What the Assessment Rulemaking Does:

This rulemaking amends OAR 441-505-3030 to increase the threshold amount from \$250,000 to \$400,000 to avoid inconsistencies between state and federal law.

Based on the information available to DCBS, the proposed rules would not have any additional fiscal or economic impact on state agencies, local governments, the public, nor small businesses beyond the underlying statutory requirements.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation 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>.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The division sought input from the Rulemaking Advisory Committee (RAC) about potential racial equity impacts that are implicated directly by the proposed changes to the rules. None were identified.

FISCAL AND ECONOMIC IMPACT:

This proposed rulemaking activity only impacts state-chartered financial institutions and will not increase the cost of operations.

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) Because proposed changes to the rules only impact state-chartered banking institutions as that term is defined in the Oregon Bank Act, the department does not estimate that state agencies, units of local government or the general public will be affected by the proposed rule.

Based on information currently available to DCBS, the proposed rule would not have a fiscal or economic impact on state agencies, local government units, nor the public.

Based on the information currently available to DCBS, the proposed rule does not have an economic impact on the general public beyond the underlying statutory requirements.

(2)(a) The department currently charters and supervises 12 state banks and 3 trust companies. Of the 12 state banks, 2 Oregon state chartered banks have fewer than 50 employees.

(2)(b) The department does not anticipate that banking institutions will need to make additional reports, keep additional

records or engage in other administrative activities to comply with the proposed rules because the proposed rules governing the activities will not change existing filing requirements with the department.

(2)(c) Because the proposed rules do not require new filings with the department, it is not anticipated that banking institutions will acquire additional equipment or supplies, hire additional employees or engage in more administrative activities to comply with the proposed rule.

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

Representatives from the banking and credit union industries employing 50 or fewer individuals and other interested parties (e.g., representatives from the appraisal board and Oregon Realtors Association) that may have a stake in how the rule is implemented were invited to participate on the rulemaking advisory committee.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 441-505-3030

RULE SUMMARY: Increases the threshold amount from \$250,000 to \$400,000 to avoid inconsistencies between state and federal law.

CHANGES TO RULE:

441-505-3030

Appraisal Required-¶¶

(1) The market value of real estate acquired by an institution pursuant to ORS 708A.175 shall be established by a real property appraisal that is current if the recorded value is equal to or greater than ~~\$254~~00,000. A bank may defer obtaining an appraisal for a maximum period of three months following acquisition of such property if the initial recorded value is based on an appropriate evaluation that is current at the time of the acquisition.¶¶

(2) If the recorded value of the real estate acquired pursuant to ORS 708A.175 is less than ~~\$254~~00,000, the market value shall be established by a real property appraisal or evaluation that is current at the time of such acquisition.¶¶

(3) An appraisal or evaluation is current if dated no more than one year prior to the acquisition.¶¶

(4) The real property appraisal or evaluation must be reviewed by appropriate institution officers to determine whether it is a reliable indicator of the value and condition of the real estate acquired and complies with applicable standards for preparation of such appraisals or evaluations.¶¶

(5) If the carrying (book) value of the real estate exceeds the market value less costs to sell, the difference shall be immediately charged off.¶¶

(6) ORS 708A.590, as relevant, shall thereafter be followed.

Statutory/Other Authority: ORS 706.790

Statutes/Other Implemented: ORS 708A.175(3), ORS 708A.590