

# Mortgage Regulation

## NEWS

Oregon Division of Finance & Corporate Securities

Fall 2007

## Administrator's message



David Tatman

Thank you for your encouraging responses to the first edition of the Mortgage Regulation News. I am pleased the content was helpful and well received. We will continue to provide you with information that helps you better serve your customers and, as you think of information that would be useful, please share those suggestions.

You can find additional information on the Division of Finance & Corporate Securities Web site including our latest annual stakeholder report, which provides an overview of the division's work in 2006. It is available online at: <http://www.cbs.state.or.us/external/dfcs/publications.html>.

Thanks to the 2007 legislative session, the last quarter was busy for the division. The Legislature passed a number of key bills that affected the division's regulatory responsibilities in areas such as consumer finance and identity theft. One bill that could have had a large impact on mortgage lenders was Senate Bill 965. The bill originally dealt with protecting consumers who use high-cost loan products and evolved into legislation modeled after the nontraditional loan product guidance issued by both federal regulators and the Department of Consumer & Business Services last fall. The bill had several hearings and was passed out of one chamber, but it did not make it out of committee of the second house.

Although good people disagreed about the intention and potential consequences of SB 965, we can all agree that mortgage-lending issues are a primary focus for policymakers and an important issue for Oregonians. Since the end of the legislative session, I've been contacted by many of you expressing an interest in working together to address the concerns raised during conversations about SB 965. What I appreciate most is your willingness to listen and brainstorm about ways we can work together to protect Oregonians and continue to support the important business you perform.

In recent days we have seen considerable changes in lending practices and the secondary mortgage market. The governor has asked DCBS to identify issues in the mortgage lending area that might be addressed in the 2008 special legislative session. I believe that concerns about subprime lending will continue to be on the minds of the public and elected officials. Should lending issues be revisited, I hope that we will be able to have a careful and deliberate discussion of problems, goals, and solutions, with input from many different sources. In the meantime, I hope you will continue to contact us with ideas and suggestions. We will continue to listen and to work together on these important issues.

David Tatman  
Administrator, Division of Finance & Corporate Securities

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# What is a no-action letter for disqualifying convictions?

Licenses are responsible for completing a 10-year state and federal background check on all loan originators. At times, a loan originator you may want to employ will have what the law calls a “disqualifying conviction.” A disqualifying conviction includes:

1. Crimes punishable by death or imprisonment in excess of one year under the law under which the person was convicted (this is the legal definition of a felony)
2. Crimes involving false statement or dishonesty, including, but not limited to:
  - Theft, misappropriation, or misapplication of monies, services, or goods in any amount
  - Falsification of records, perjury, or other similar criminal offenses indicating dishonesty
  - Taking of bribes, kickbacks, or other illegal compensation
  - Deceiving the public or any person by means of swindling, false advertising, or like acts

If a potential loan originator has a disqualifying conviction, they may not work as a loan originator in Oregon unless they receive a no-action letter from the Department of Consumer & Business Services. A no-action letter is a letter from the agency authorizing the loan originator to work because their criminal history may not impact their work as a loan originator. The process for requesting a no-action letter is outlined in Oregon Administrative Rule 441-880-0050 and available online at: [http://arcweb.sos.state.or.us/rules/OARS\\_400/OAR\\_441/441\\_880.html](http://arcweb.sos.state.or.us/rules/OARS_400/OAR_441/441_880.html).

There are few instances when a loan originator with a disqualifying conviction will meet the criteria for no-action. Before taking the time to submit such a request, you can call DCBS’ Division of Finance and Corporate Securities and find out whether the nature of the conviction is likely to meet the criteria for no-action. ■

## Advertising alert

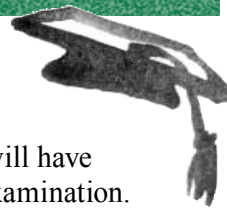
To help the mortgage lending industry better understand requirements related to state and federal advertising laws, the Division of Finance and Corporate Securities sent 125 warning letters since January 2007 to companies whose advertising is not in compliance with state and federal law. Thanks to our industry partners who sent us advertising they were concerned about and to lenders who took corrective action on their own advertising.

The Division plans to convene an advisory group in the next year to look at strengthening our rules on mortgage

lending advertising. Please continue to send us ads that may be misleading to consumers. ■



# Education update



On May 1, 2007, the Department of Consumer & Business Services began a new contract with Applied Measurement Professionals (AMP) to provide the state-approved examination for Oregon loan originators. The examination is an important feature of state regulation. It ensures that loan originators have a basic level of education before they begin working with consumers on their most important financial transaction. It also serves to deter potential loan originators who may not be serious about mortgage lending as a profession or may not have the aptitude to be a loan originator.

DCBS chose AMP because of its significant experience in professional testing and its ability to provide convenient testing centers and an affordable testing price for loan originators.

Although the test questions changed on May 1, 2007, the content of the examination is largely identical to the content outline for the previous test that had been proctored since January 2006. The primary difference is that the entry-level course providers no longer develop the test questions and therefore must teach you from the content outline available in the student handbook rather than prepare you from a bank of previously viewed questions.

***This means that you may have to do some self-study based on the content outline depending upon your experience and knowledge of the subject matter.*** The entry-level course providers continue to update their curriculum to best reflect the course material but since they do not see the test in

advance they cannot completely duplicate the experience you will have when you take the examination.

Please ***thoroughly read the content outline available in your student handbook before registering for the test.*** And make sure you understand what type of calculator to bring with you to the examination. You can access the candidate handbook and other related materials at: <http://www.goamp.com>.

As a result of your feedback, AMP and DCBS developed additional materials, including a more detailed content outline, which are available on this site under the link “[list related materials](#).” We believe the combination of the entry-level course, the supplemental materials, and any training/education you receive from your mortgage lending supervisor should prepare you to be successful on this examination.

AMP has pretested the questions to ensure they perform appropriately from a statistical standpoint. The company will continue to evaluate the examinations for content and statistical performance. The entry-level education providers have been provided additional information about content of the questions, and we believe they will continue to improve their educational materials. AMP, DCBS, and the education providers will continue to adjust the questions and materials based on your feedback and performance. ■

## Examination update

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As many of you know, the mortgage lending program hired additional examiners in December 2006 to increase its examination activity. This means if you have never had an examination you will probably be scheduled for one during the next 24 months. The division also began performing routine examinations of out-of-state mortgage lending licensees. Since December 2006, the out-of-state licensing examiner, Mike Ruda, has completed 18 examinations. The number of in-state examinations has doubled since last year.

If you would like to know what to expect from an examination, you can view the examiner's working documents online at: [http://www.cbs.state.or.us/external/dfcs/mortgage\\_lending.html#forms](http://www.cbs.state.or.us/external/dfcs/mortgage_lending.html#forms). ■

**Mortgage Regulation News** is published by the Oregon Department of Consumer & Business Services, Division of Finance & Corporate Securities.

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## Administrative orders since January 2007



This is a summary of recent administrative cases involving mortgage lenders. For additional information and detail, visit our Web site at: <http://dfcs.oregon.gov>.

### **Alliance Mortgage LLC ML-2165**

License revocation - May 9, 2007, and \$2,500 civil penalty for loans containing false information and failure to diligently supervise staff.

### **Bebak Sehat**

Cease-and-desist order - May 1, 2007, and \$80,000 civil penalty for truth in lending violations and unlicensed activity.

### **Clayborn Collins**

Cease-and-desist order - March 28, 2007, and \$8,750 civil penalty for not being registered as a loan originator and misrepresenting identity to avoid criminal history disqualifying convictions.

### **Dream Life Lenders LLC**

Cease-and-desist order - April 20, 2007, and \$25,000 civil penalty for unlicensed activity and falsifying licensing documents.

### **Executive Mortgage & Financial Services ML-2490**

Cease-and-desist order - July 13, 2007, and \$10,000 civil penalty for not properly registering loan originators and disclosure violations related to rate locks, yield spread premiums, and truth in lending disclosures.

### **Fairland Mortgage Inc.**

Cease-and-desist order - July 10, 2007, and civil penalty of \$1,286.20 for unlicensed activity and misrepresentation of licensing status.

### **Gibraltar Funding Corp. ML-3781**

Cease-and-desist order - July 10, 2007, for engaging in fraudulent transactions based on falsifying borrower employment verification.

### **Local Point Financial**

Cease-and-desist order - March 27, 2007, and \$50,000 civil penalty for soliciting mortgage business without a license.

### **Morgan Financial ML-776**

Cease-and-desist order - June 28, 2007, and civil penalty of \$5,000 for employing a loan originator with a disqualifying conviction without a no-action letter.

### **Mortgage Trust, Inc. ML-2225**

Cease-and-desist order - May 15, 2007, and \$20,000 civil penalty for making loans based on false information and misrepresenting loan terms.

### **Pacific Northwest Mortgage, Inc. ML-1010**

Cease-and-desist order - Jan. 4, 2007, and \$15,000 civil penalty for multiple disclosure violations, failure to maintain an experienced person, and failing to remain in compliance with education requirements.

### **Valley Central Mortgage, ML-3506**

Cease-and-desist order - Feb. 23, 2007, for employing a loan originator with disqualifying convictions, truth in lending violations, and failure to remain in compliance with education requirements, and \$10,000 for investigation costs.