

Mortgage Regulation

NEWS

Oregon Division of Finance & Corporate Securities

Summer 2008

Administrator's message



David Tatman

The past three months brought many new developments in the mortgage industry as everyone deals with the changing economic and mortgage climate. Here

in Oregon, the Governor's Mortgage Lending Work Group worked to develop a reasoned response appropriate for our state. As a result of that group's efforts, several bills were presented to the 2008 special legislative session. By the end of the special session, the Legislature had passed two bills, Senate Bill 1064 and House Bill 3630, arising from issues discussed by the group.

Senate Bill 1064 has two parts: a new annual report requirement for mortgage lender licensees and DFCS' expanded authority over loan originators. The bill requires licensees to file an annual report with DFCS detailing their lending activity. For more information about this, please see the article on the back page of this newsletter.

The other major provisions of Senate Bill 1064 address loan originators. The bill adds negligence or incompetence to the current list of prohibited conduct by a loan originator and grants DFCS the authority to suspend or ban a loan originator from the industry for violating the Oregon Mortgage Lender Law. The bill requires DFCS to enhance its current online information to provide consumers with a registry with at least 10 years

of information about loan originators, including justified complaints and any enforcement actions that have been taken.

The other major piece of legislation affecting housing in Oregon was House Bill 3630. It adds protections for consumers at risk of foreclosure by regulating both "consultants," who purport to help homeowners avoid foreclosure, and "equity purchasers," who acquire a financial interest in the property. It also requires new notices to borrowers in foreclosure.

The bill requires foreclosure consultants to provide the homeowner with a written contract that contains plain language disclosures including a full description of services to be provided and the total costs of the contract. The bill also limits the compensation these consultants can receive. It prohibits the consultant from taking an interest in a residence in foreclosure or default when the consultant had a contract for foreclosure consulting services.

The bill also requires equity purchasers to provide the homeowner with a written contract in plain language. In addition, equity purchasers must now ensure the homeowner has the ability to buy back the home, and the transfer of the home is required to take place through escrow. If the home is resold quickly, the bill entitles the homeowner to a share of proceeds. The homeowner also has the right to cancel a foreclosure-consulting or an equity-purchasing contract.

The division plans to develop frequently asked questions about foreclosure consultants and equity purchasers. Please check our Web site in the next few weeks for this feature at <http://www.cbs.state.or.us/dfcs/>.

Inside this issue

Enforcement updates.....	3
Free education credits!.....	3
On the road to compliance: FREE 3-hour continuing education class: comply 1-2-3	4
Keeping current with the continuing education requirements	4
DFCS can now ban loan originators	5
Notification date quick tips.....	5
New annual report requirements	6



Division of Finance & Corporate Securities

Continued on Page 2



Division of Finance & Corporate Securities

350 Winter St. NE, Rm. 410
Salem, Oregon 97301-3881

<http://dfcs.oregon.gov>
503-378-4140

Administration

David Tatman

Administrator

david.c.tatman@state.or.us

Nancy Boysen

Deputy Administrator

nancy.j.boysen@state.or.us

Program Contacts

Kirsten Anderson

Mortgage Lending Program Manager

kirsten.l.anderson@state.or.us

Fernando Velez

Consumer Information Specialist

fernando.a.velez@state.or.us

Phyllis Gander

Program Support

phyllis.k.gander@state.or.us

In-house Examiners

Betty Keppinger.....A-E

betty.a.keppinger@state.or.us

Lee Proctor.....F-M

d.lee.proctor@state.or.us

Ken Power.....N-Z

kenneth.e.power@state.or.us

Field Examiners

Jeffrey Keuter

jeffrey.l.keuter@state.or.us

Mindy Landing

mindy.landing@state.or.us

Anna Mahony

anna.m.mahony@state.or.us

Mike Ruda

mike.s.ruda@state.or.us

Administrator's message, *continued*...

For those facing foreclosure, House Bill 3630 will require the homeowner to be sent a notice, in plain language, with information about how to stop the foreclosure process; the amount needed to bring the loan current; and sources of counseling and advice. It also will require those in the business of lending money to provide a toll-free telephone number for the homeowner to get loan delinquency and repayment information and for person-to-person consultation to discuss the payment and loan-term negotiation and modification options. The division posted sample foreclosure notices that meet the new statutory requirements on its Web site.

The division recently adopted new administrative rules regarding advertising that we believe will address concerns lenders have shared with us over the past few years about advertisements that they believe mislead borrowers. The rules focus on deceptive language and apparent false affiliations between the advertiser and a consumer's mortgage holder. Information about these rules is available on our Web site, and we will feature the new rules in the next newsletter.

In addition, the division is preparing to join the Nationwide Mortgage Licensing System (NMLS) in 2009. This Internet-based licensing system will allow the division to coordinate mortgage licensing and supervision with other states and is expected to reduce the regulatory licensing burden on companies licensed in multiple states. The system is modeled on the registry used for securities brokers and dealers. You'll be receiving notice about our migration plans from time to time in the coming year. In preparation for that migration, the division will be changing the paper licensing forms that you may be familiar with to the uniform licensing forms used with NMLS system. This change will not affect the Online Mortgage Lender Licensing System found at www.oregonimla.org, which we still encourage licensees to use in the meantime.

The Governor's work group continues to meet to discuss changes to mortgage regulation in Oregon. Your comments and suggestions are welcomed.

I would like to update you on some personnel changes in the division. In the previous newsletter I announced that Berri Leslie had accepted a new position with the Washington Department of Financial Institutions. Kirsten Anderson stepped in to act as the interim Mortgage Lending Program manager and accepted the permanent position after an open recruitment. She has been with the division since September 1999 when she was hired as the compliance officer for the Mortgage Lending Program. In the spring of 2002, she moved to the division's Enforcement Unit where she has spent the past six years enforcing mortgage lending, securities, and other financial laws.

Jeffrey Keuter, who has been an examiner with the Mortgage Lending Section since August 2006, has been promoted to fill the vacancy caused when Tim Spencer left in January. Mindy Landing joined the division on June 5 as an examiner. Mindy has been working with mortgage products in the industry since 1990. Mindy will focus on consumer complaints and examinations.

Finally, Phyllis Gander has joined the division to fill the vacant program support position. Phyllis has been working in the mortgage industry for more than 20 years and will soon be answering routine questions about education and licensing requirements.

We always enjoy hearing from you and the exchange of ideas about mortgage lending. Feel free to contact me at david.c.tatman@state.or.us. ■

David Tatman

Administrator, Division of Finance & Corporate Securities



Enforcement updates

Allegiance Mortgage LLC and Brian Fallini, M-06-0039: Recently, DFCS entered into a consent order with Allegiance Mortgage LLC and its owner, Brian Fallini. The case involved a three-year fraud investigation of the company that also resulted in federal indictments for two of the company's loan originators. The order is based on findings that three loan originators with the company engaged in fraudulent loan origination activity by inflating borrowers' incomes or by falsely stating that the borrower worked for a small business operated by an associate of one of the loan originators. When Fallini learned of the fraudulent activity, he censured the loan originators and held a meeting for all loan originators explaining the company's zero-tolerance fraud policy. However, the company did not make any changes to its supervision of the loan originators or take any additional steps to prevent the loan originators from engaging in further fraud. As a result, the three loan originators continued to submit fraudulent loan applications using the same methods. As part of the consent order, DFCS revoked Allegiance's license, banned Fallini from the mortgage lending industry, and imposed a civil penalty of \$50,000 against Allegiance and \$35,000 against Fallini.

Pine Mountain Mortgage, Inc. and Del Barber, Jr., M-08-0005: On April 11, 2008, DFCS entered a final order revoking the license issued to Pine Mountain Mortgage and imposing

civil penalties of \$50,000 against Pine Mountain Mortgage, Inc. and \$15,000 against the owner, Del Barber, Jr. The order found that the company failed to comply with a number of requirements, including providing notice of address changes, maintaining a client's trust account to deposit funds, employing Del Barber, Jr., as a loan originator when he had failed to complete required continuing education, and maintaining borrower files. The order also found that the company and Del Barber, Jr., engaged in fraud by submitting loan applications that contained materially false income and occupancy information.

Pacific Crest Funding LLC, M-07-0046: On June 4, 2008, DFCS entered into a consent order with Pacific Crest Funding LLC. Dean Schmidt, a loan originator and joint owner of Pacific Crest, was approximately 10 months late in completing his entry-level and continuing education requirements. In a letter to DFCS, another Pacific Crest owner stated that Schmidt would not originate loans until he completed the education requirements. Nevertheless, Schmidt continued to originate loans before completing his requirements. During the time frame of Jan. 23, 2006, through April 11, 2007, Schmidt originated 62 mortgage loan transactions. Pacific Crest entered into a consent agreement with the division and agreed to pay a \$10,000 civil penalty for failing to supervise Schmidt. ■

Free education credits!



The Oregon Mortgage Lending Education Board (MLEB) wants you to survey continuing education classes for credit.

The Oregon MLEB offers qualified originators the opportunity to survey live classes. Surveyors will receive credit towards continuing education hours AND reimbursement for the cost of the class.

That's right. If you are an Oregon mortgage originator with at least two years of experience and in good standing with state, the Oregon MLEB would like you to apply to survey a course, earn credit hours, and receive the cost of the course back in reimbursement. Courses will be randomly assigned and not chosen by surveyors. Your participation may be limited depending on the response the Oregon MLEB receives.

For more information, visit the Oregon MLEB's Web site at oregonmleb.com. ■

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

Editing

Mark Peterson,
Communications

Design and production

Kiki Hammond,
Communications

Web: <http://dfcs.oregon.gov>

On the road to compliance:

FREE 3-hour continuing education class: comply 1-2-3

DFCS and the Oregon Mortgage Lending Education Board (MLEB) have joined forces to sponsor a new course for Oregon mortgage originators for free. To be held in several locations across the state, State Examiner Anna Mahony will be discussing the ins and outs of compliance in the State of Oregon.

Attendees will receive three hours of continuing education credit. The course will cover many topics, including licensing, examinations, personnel ledgers, education, certificates, advertising files, client trusts, loan files, complaints, good faith estimates, and APR items.

Funded by Oregon MLEB, the events will have limited seating and require an RSVP. There will be no cost to originators to attend the course. For more information, visit the Oregon MLEB's Web site at oregonmleb.com. ■

Keeping current with the continuing education requirements

One of the most consistently misunderstood requirements relates to the education requirements. They are primarily found in OAR 441-880-0020, which states:

441-880-0020 Educational Requirements

- (1) Each loan originator required to take an entry-level course and pass an examination on state and federal laws and rules relating to mortgage lending in this state must complete a Certified Authority approved course and pass a Certified Authority approved examination prior to taking a loan application from any Oregon consumer. However, a loan originator who was hired prior to the effective date of this rule amendment is granted an extension to April 13, 2007 to complete the entry-level course and pass the examination.
- (2) A passing score on a Certified Authority approved entry level examination is valid for 2 years from the date of passing the examination.
- (3) Each loan originator must complete 20 hours of continuing education within 24 months of their Notification Date and every subsequent 24-month period. There shall be no carryover of hours of continuing education between periods.
- (4) Any person who fails to meet the continuing education requirement may not function as a loan originator until they take a Certified Authority approved entry-level course and pass a Certified Authority approved examination on state and federal laws and rules relating to mortgage lending in this state.

In plain language, there are two types of education: entry-level and continuing education. When the law was first enacted, it provided a grandfather clause for those who were experienced that effectively exempted them from the requirement to complete entry-level education. To be eligible for the grandfather clause, the loan originator must meet the following three requirements:

1. The loan originator must have worked full-time as a loan originator for at least three years prior to Jan. 1, 2002.
2. The loan originator must have been working as a loan originator on Jan. 1, 2002.
3. At least one company must have provided notice of the hire of the loan originator to the division prior to Dec. 31, 2003.

For loan originators that meet all three requirements, they are not required to take entry-level education but are required to take 20 hours of MLEB-approved continuing education every 24-month period beginning with their specific notification date. A common misconception is that education is due 24 months from the last education certificate completion date. The correct date for education is the Notification Date, which is specific to each loan originator and can be found at www.dfcs.oregon.gov.

All loan originators that were not eligible for the grandfather clause are required to complete 20 hours of entry-level education as well as completing 20 hours of continuing education every 24-month period beginning with their specific notification date. Beginning Jan. 1, 2006, new loan originators were required to complete the 20 hours of entry-level education and pass a proctored examination within six months from their notification date. As of Jan. 1, 2008, the rule changed and all new loan originators are required to complete the entry-level education and pass the proctored examination before originating any Oregon residential mortgage transactions.

If a loan originator fails to complete the required entry-level education or continuing education, the loan originator must cease originating loans until he or she has completed the entry-level course and passed the proctored examination. ■

DFCS can now ban loan originators

As new legislation goes into effect this month that allows DFCS to permanently prohibit or suspend a person from acting as a loan originator based upon a violation of the Oregon Mortgage Lender Law, it's an appropriate time for a reminder that DFCS can hold individual loan originators, as well as the companies for which they work, accountable for violations of the Oregon Mortgage Lender Law.

Although DFCS began regulating mortgage companies on Jan. 1, 1994, it wasn't until Jan. 1, 2002, that the law clearly provided that DFCS could hold loan originators individually accountable for certain items, separate from the company for which the loan originator worked. ORS 59.971(1) states that loan originators are prohibited from engaging in dishonest, fraudulent, or illegal acts or practices, repeatedly or willfully violating the Oregon Mortgage Lender Law, failing to account for money in connection with a mortgage loan, or failing to complete the required education. A loan originator can be assessed a civil penalty of up to \$5,000 per violation or \$20,000 for a continuing violation of ORS 59.971(1) or even face criminal charges as any violation of ORS 59.971(1) can be charged as a Class C felony. However, regardless of the number or severity of the violations, the law still did not state how DFCS could prohibit the person from acting as a loan originator.

DFCS received its first authority to prohibit a person from acting as a loan originator on Jan. 1, 2004, with a new law that required each licensee to complete a criminal records check on every loan originator it employed and all prospective loan originators prior to hire. Any person with a felony conviction or any conviction involving a false statement or dishonesty was prohibited from acting as a loan originator. But DFCS still didn't have authority to ban a person from acting as a loan originator without the appropriate conviction, regardless of what violations of the Oregon Mortgage Lender Law the loan originator had committed, including fraud. Also, getting district attorneys to prosecute mortgage violations has been difficult at times.

That changed May 1, 2008, when Senate Bill 1064 went into effect. In addition to holding the company responsible for the acts of its loan originator, DFCS now can permanently prohibit or suspend a person from acting as a loan originator if the person has violated any provision of ORS 59.840 to 59.980 or any rule or order of the director. Now not only can DFCS impose a civil penalty, it can finally remove a loan originator from the industry for a violation. ■

Notification date quick tips:

The notification date is the date that the division first receives notice that a person is working as a loan originator for a licensed mortgage lender. The notification date sets the deadline for continuing education. Every loan originator must complete 20 hours of MLEB-approved continuing education every 24 months from the loan originator's notification date. For instance, if a loan originator's notification date is Jan. 31, 2002, then the loan originator must have completed 20 hours between Jan. 31, 2002, and Jan. 31, 2004, another 20 hours between Feb. 1, 2004, and Jan. 31, 2006, and another 20 hours between Feb. 1, 2006, and Jan. 31, 2008.

You can look up a loan originator's notification date on the division's web site at <http://www4.cbs.state.or.us/ex/dfcs/loanorig/>.

A loan originator's notification date does not change when the loan originator moves to another licensed mortgage lender. If the loan originator moves to a company that is exempt from licensing, such as a bank, but then moves back to a licensed mortgage lender, the notification date will be the date that the division first receives notice that the person is again working as a loan originator for a licensed mortgage lender. This is the only time that a person's notification date will change. ■



Division of Finance & Corporate Securities

350 Winter St. NE, Rm. 410
Salem, Oregon 97301-3881

PRSR STD
US POSTAGE
PAID
SALEM OR
PERMIT NO. 81

New annual report requirement

On March 11, 2008, Gov. Ted Kulongoski signed into law Senate Bill 1064, which requires licensees to file an annual report with DCBS detailing their lending activity and provides that companies that fail to file the annual report may be subject to a civil penalty of up to \$100 per day for each day the report is late.

The information in the report is confidential and is not subject to disclosure, except that DCBS may abstract information from the reports for use in such a manner that it doesn't identify a particular licensee. DCBS expects to use the information to create reports that show the overall picture of lending in Oregon. The information also will help DCBS administer the mortgage lending program.

After obtaining informal input from industry professionals, DCBS filed temporary rule OAR 441-865-0022 on May 7, 2008, which outlined the items needed to be reported for the annual report and set the deadline for the report as Aug. 30, 2008. After filing the temporary rule, DCBS received additional input from the industry that some licensees would have to complete lengthy or costly processes to collect sufficient data to comply with

the report requirement. DCBS met with various industry representatives to address concerns about the reporting requirements. As a result of those meetings, DCBS has elected to make reporting certain requirements of the annual report for 2007 data voluntary. DCBS is in the process of filing a new temporary rule to make the appropriate changes.

By Aug. 30, 2008, each licensed company must report at least the mandatory section of the annual report regarding 2007 data. The mandatory data includes reporting the total number and dollar amount of first-lien loans, subordinate lien loans, conventional loans, interest-only loans, negative amortizing loans, adjustable rate loans, loans with conventional repayment penalties, loans for purchasing an owner-occupied residence, and loans to refinance an existing home loan. The report form will be available on our Web site, www.oregondfcs.org, by Aug. 1, 2008, and can be completed online. You will need your license number and PIN to access the report form. If you need a PIN or have questions about completing the form, please contact the division. ■