

Mortgage Regulation

NEWS

Oregon Division of Finance & Corporate Securities

Winter 2011

Administrator's message



David Tatman

It's hard to believe 2010 has already come and gone. It certainly was a busy year, dominated by our transition to the Nationwide Mortgage Licensing System (NMLS) and

implementation of the new loan originator licensing requirement. While any change can be difficult to adapt to, now that we are fully on the system and have completed our first renewal, it's clear that this is a change for the better.

Unfortunately, there is little time to rest and reflect as the new Legislature has convened at the Capitol. It may be a busy year, even though we have proposed only two bills to change the mortgage lending laws. The first addresses the composition of advisory committees and the other ensures confidentiality of borrowers' mortgage documents reviewed during an examination. When the Oregon Mortgage Lending Law was first implemented, it contained a provision - now ORS 86A.172 - requiring us to consult an equal number of mortgage brokers and bankers before adopting any new rules. At the time, the equal number provision made perfect sense since our rules typically affected just mortgage brokers and bankers. Over time, the Legislature expanded our scope to include increasing oversight of loan originators and loan originator licensing. As a result, there are other people who may have insight that we should consider when writing rules. Yet the current restriction means we have to be very

careful about balancing participation in the formal process. Often, this may exclude the very voices that might be most instrumental at getting to the right result. So, we proposed to amend that statute in House Bill 2084, removing the provision that requires equal mortgage banker and mortgage broker participation. Instead, we proposed we consult a committee "that represents the interests of persons that the rules will likely affect" and complies with the Attorney General's rulemaking procedures. Instead of counting the heads in the room to make sure the numbers are equal, this change would let us look around the room to make sure the right people are there to advise us.

The other bill we proposed will make the mortgage documents that we collect and review during examination exempt from public disclosure. Oregon currently has a Sunshine Law that makes most records of the state available for public review. While an open and transparent government is good and there are appropriate exemptions for personal information, there are times in which the government collects information through routine processes that might not be considered personal under the laws, but still deserves some protection from disclosure. Specifically, the division routinely examines companies we license and that examination includes reviewing borrower documents. Often, we take copies of loan documents, if not entire files, to support our examination process. While some information in those files, such as Social Security numbers, is already protected from disclosure, other documents, such as a good faith estimate or letter of explanation, don't have that protection. These borrowers didn't ask to

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Administrator's message . . . *continued*

have their files reviewed; it was just the luck of the draw during an examination. So, we believe their mortgage documents should be protected from disclosure under the public records law, the same way we would expect you to protect them. Therefore, we proposed House Bill 2083, which would exempt mortgage loan documents obtained during an examination from disclosure under the public records law.

While we have proposed just these two new bills, it appears the Legislature will focus some attention on foreclosures, short sales, and servicing in general, so it will indeed be a busy time for us this legislative session. If you have any questions or concerns, contact me, Kirsten Anderson, or the mortgage staff by phone or e-mail.

On another note, we have three new faces in the Mortgage Lending Section. In October, Lacey Green joined the section as the new office specialist, replacing Lynn Marshall. Lacey does much of the behind-the-scenes work preparing examination report packets and complaint files as well as processing surety bond notices and other administrative tasks.

In a realignment of positions, Tippi Pearse and Jason Weber are enforcement officers assigned to the Mortgage Lending Section. While they previously worked mortgage and other cases in the Enforcement Unit, we are excited to have them now working solely on mortgage cases. This means the section will be more streamlined to handle all parts of the regulatory function. ■

Renewal and reinstatement of licenses that failed to renew

Oregon just completed its first renewal cycle on the NMLS. Licenses that were first issued on or after Nov. 1, 2010, don't expire until December 2011 and those loan originators will complete their first renewal in November 2011.

However, those originators issued a license prior to Nov. 1, 2010, had to renew that license or it would expire on Dec. 31, 2010. In order to renew the license, the mortgage loan originator had to authorize a credit report, respond to any deficiencies placed on the application, and submit a renewal request. In order to be licensed and authorized to originate Oregon residential mortgage loans on or after Jan. 1, 2011, the originator must have **both** the following:

- The license status must be either in approved or approved-deficient; **and**
- The renewal request must be approved.

Roughly 90 percent of all eligible loan originator licenses were renewed by the Dec. 31, 2010, deadline. However, nearly 100 renewals remained pending waiting

for loan originators to respond to outstanding deficiencies. For renewal requests still pending due to an outstanding deficiency, those loan originators have until the deadline placed on their application in the NMLS to clear the remaining deficiencies. If they don't, the license will be terminated for failure to renew. They may not originate any new Oregon residential mortgage loans until the license is successfully renewed.

While less than 25 mortgage loan originators have indicated they do not intend to renew their Oregon loan originator licenses, there were approximately 235 Oregon loan originators who neither filed a renewal nor indicated that they do not intend to renew. All of these Oregon loan originator licenses have been placed in a "Terminated — Failed to Renew" status; they had until Feb. 28, 2011, to request renewal. They are **not** authorized to take a new application for an Oregon residential mortgage loan, but may complete the loans that were in process as of Dec. 31, 2011. ■

NMLS call reports starting in 2011 —

First report due May 15, 2011

ORS 86A.239(2) was enacted on Aug. 1, 2010, in order to bring Oregon's mortgage licensing laws into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). This new Oregon law requires all mortgage companies that employ loan originators to submit an NMLS Mortgage Call Report in such form and containing such information as required by the Nationwide Mortgage Licensing System and Registry (NMLS). The NMLS Mortgage Call Report is a single report that reflects the entire mortgage activity and financial information of a company. **Please note that this is different than the annual report that must be filed directly with the division.**

After months of discussion and public comment at the national level, the NMLS Mortgage Call Report is now being implemented. The functionality should be available in the NMLS by the end of April 2011 to allow companies to report first quarter 2011 data. Companies will be able to report this data either manually or through an upload option.

What you need to know

All companies holding Oregon Mortgage Banker/Broker licenses or companies employing Oregon licensed mortgage loan originators must complete the NMLS Mortgage Call Report on a calendar quarter basis and submit it through the NMLS. Reports must be filed within 45 days following the end of the quarter. **Therefore, the first report will be due by May 15, 2011.**

While Oregon does not charge for the filing of this report, NMLS may charge a processing fee for submitting the NMLS Mortgage Call Report.

If you do not file this report by the deadline each quarter, Oregon will place a deficiency on your company's license. If you do not cure the deficiency before a renewal period, your company will not be allowed to renew its license. In addition,

ORS 86A.224(3) allows the department to assess a civil penalty against your company of up to \$5,000 per instance and up to \$20,000 for a continuing violation of this requirement.

What you need to do

You should begin preparing now to file the report by collecting loan level information. Begin by visiting the NMLS Resource Center's page on the NMLS Mortgage Call Report at <http://mortgage.nationwidelicensingsystem.org/slr/common/mcr/Pages/default.aspx> to see what information your company needs to submit. This information will be reported through NMLS starting in the second calendar quarter of 2011 for first calendar quarter activity and financial information. **This means you should be collecting this data now.**

In addition, your company must ensure that the "Other Business" section of your MU1 Record is accurate. All companies that are Fannie Mae or Freddie Mac Approved Seller/Servicers or Ginnie Mae Issuers are required to submit more comprehensive information. The report for such lenders is substantially similar to information currently submitted as part of the Mortgage Bankers' Financial Reporting Form. If your company's MU1 "Other Business" section indicates that you are a Fannie Mae or Freddie Mac Approved Seller/Servicer or Ginnie Mae Issuer, you are required to file this more comprehensive report even if you mistakenly selected the box, so it is imperative that you verify the correct boxes are checked on the "Other Business" section of your MU1 before you must file the report.

If you have questions, contact the division. Your questions will be handled by one of our examiners, who are assigned to licensees alphabetically by the company name. Examiner contact information is listed on Page 4. ■

Be sure to . . .

keep your NMLS record up-to-date. All licensees, whether companies or loan originators, are required to update *any* information on the licensee's NMLS record that changes within 30 days. This is done by filing an amendment in the NMLS. This is required by rule OAR 441-860-0070 for companies and OAR 441-880-0040 for loan originators. If a licensee fails to do so, the licensee can be fined up to \$5,000. More importantly, if this is material information, such as an answer to a disclosure question, failure to update may result in a materially deficient application that can result in suspension, conditioning, denial, or even revocation of the license.

How to file an amendment to a company's application:
<http://mortgage.nationwidelicensingsystem.org/licensees/resources/LicenseeResources/Amendments%20Quick%20Guide.pdf>

How to file an amendment to a loan originator's application:
<http://mortgage.nationwidelicensingsystem.org/licensees/resources/LicenseeResources/Amendments-MU4.pdf> ■

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Annual reports due March 31, 2011

ORS 86A.112(3) requires that each licensee file an annual report related to the mortgage broker or banker's residential mortgage lending business for the prior year. The timing and form of the report were set by administrative rule, located at OAR 441-865-0025. The report for 2010 business practices is due by **March 31, 2011**.

The division has posted the annual report form on our website at <https://www4.cbs.state.or.us/exs/dfcs/mlrpt/index.cfm>. The form must be completed online. For security purposes, you will need your license

number and PIN to access the report form. The PIN is the same one that you use for our online licensing system at www.oregonimla.org. This is not your NMLS ID and password. If you need a PIN or have questions about completing the form, please contact one of our division examiners listed below, who are assigned to licensees alphabetically by the company name.

Licensees 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 statutes are accessible from the Division of Finance and Corporate

Securities' website located at <http://dfcs.oregon.gov>.

The information in the report is confidential and not subject to disclosure, except that the division may abstract information from the reports for use in such a manner that it doesn't identify a particular licensee. We anticipate that the information will be used to create reports that show the overall picture of lending in Oregon and to assist the division in the administration of the mortgage lending program. ■

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