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CHAPTER 441

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
FINANCE AND SECURITIES REGULATION

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FILING CAPTION: Authorization to allow Oregon Licensed Loan Originators to Work Remotely

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RULES:

441-860-0030, 441-860-0040

AMEND: 441-860-0030

RULE TITLE: Branch Office Licensing

NOTICE FILED DATE: 07/27/2022

RULE SUMMARY: Allows Oregon licensed loan originators and employees to work from home.

RULE TEXT:

- (1) If a mortgage banker or mortgage broker intends to operate a branch office, the mortgage banker or mortgage broker shall obtain a license for the branch office prior to originating loans from the branch office by submitting the licensing fee specified in OAR 441-860-0101 and submitting a Form MU3 to the Nationwide Multistate Licensing System (NMLS).
- (2) Upon satisfaction of the requirements listed in section (1), the director shall issue a separate branch office license.
- (3) A licensed mortgage loan originator may originate loans from a location other than from a licensed branch office if the location is the licensed mortgage loan originator's home; the licensed mortgage loan originator is an employee of a mortgage banker or mortgage broker; and the mortgage banker or the mortgage broker complies with OAR 441-860-0040, as applicable.
- (4) If a mortgage banker or mortgage broker intends to allow a licensed mortgage loan originator to originate loans from the licensed loan originator's home, the mortgage banker or mortgage broker shall:
 - (a) Have appropriate policies and procedures in place to supervise the activities of loan originators and employees working from home including, but not limited to, data security measures to protect consumers' personal information and compliance with OAR 441-860-0040.
 - (b) Upload a copy of the policies and procedures required by subsection (a) of this section to the NMLS to Document Uploads under Company Staffing and Internal Policies.
 - (c) Ensure that all underlying origination records can be made available at a licensed location in the United States.
- (5) Loan originators and employees who work from home are prohibited from keeping any physical business records at any location other than a licensed location.

(6) Loan originators and employees who work from home may engage with consumers for loan origination purposes at the home of the loan originator or employee by means of conference telephone or similar communications equipment that allows all persons participating in the visitation to hear each other, provided that participation is controlled and limited to those entitled to attend, and the identity of participants is determinable and reasonably verifiable.

(7) Loan originators and employees who work from home are prohibited from engaging in person with consumers for loan origination purposes at the home of the loan originator or employee, unless the home is licensed as a branch.

STATUTORY/OTHER AUTHORITY: ORS 86A.136, 86A.242

STATUTES/OTHER IMPLEMENTED: ORS 86A.166(1)

AMEND: 441-860-0040

RULE TITLE: Supervision of Branch Offices, Home Locations, and Mortgage Loan Originators

NOTICE FILED DATE: 07/27/2022

RULE SUMMARY: Sets forth mortgage broker/mortgage bankers standards and oversight of loan originators and employees who work from home.

RULE TEXT:

(1) A mortgage banker or a mortgage broker must diligently supervise and control every mortgage loan originator employed by the mortgage banker or the mortgage broker in the mortgage banker or mortgage broker's principal place of business and at each branch office or mortgage loan originator's home, if the mortgage loan originator is permitted to work from home.

(2) A mortgage banker or mortgage broker must personally supervise or designate a control person to supervise every mortgage loan originator and each branch office or, if a mortgage loan originator is working from home, the mortgage loan originator's home to ensure compliance with ORS 86A.095 through 86A.242 and OAR chapter 441, divisions 850 through 885, as applicable.

(3) In order to diligently supervise and control a mortgage loan originator employed by the mortgage banker or the mortgage broker, the mortgage banker or mortgage broker shall:

(a) Ensure that mortgage loan originators, and persons required to be licensed as mortgage loan originators, employed by the mortgage banker or mortgage broker obtain and maintain a license under ORS 86A.200 through 86A.242 and OAR chapter 441, division 880.

(b) Establish, maintain and enforce written procedures to supervise the activities of mortgage loan originators employed by the mortgage banker or mortgage broker and other associated persons that are subject to its supervision and to supervise the operations of each office of the mortgage banker or mortgage broker transacting loans with Oregon consumers. The procedures shall be reasonably designed to achieve compliance with applicable Oregon and federal lending laws and rules, including ORS 86A.095 through 86A.198.

(c) Review the activities of each office transacting loans with Oregon consumers, which shall include the examination of customer loan files, including closed and opened files. The reviews shall be reasonably designed to assist in detecting violations of, preventing violations of and achieving compliance with applicable mortgage lending laws, regulations and rules, as well as detecting and preventing irregularities or abuses. Each mortgage broker shall retain a record of the dates and findings of each review. The duties of this rule may be delegated to a qualified supervisor.

(d) Provide a copy of the procedures required by this rule to every mortgage loan originator employed by the mortgage banker or mortgage broker in written or electronic format.

(e) Ensure that mortgage loan originators obtain training to address deficiencies identified by the mortgage banker or mortgage broker in loan file and operations reviews or make up deficiencies in continuing education as necessary.

(f) Establish procedures for handling consumer complaints and develop procedures to identify the types of consumer complaints that must be forwarded to a supervisor for review. Complaints that must be forwarded to a supervisor include complaints about material changes in loan terms, fees or expenses, or material omissions about loan terms, fees or expenses. The mortgage banker or mortgage broker shall also develop procedures for investigating, responding to and keeping a record of complaints forwarded to a supervisor.

(g) Visit at least annually each branch the mortgage banker or mortgage broker licenses in Oregon or the mortgage loan originator's home, if the mortgage loan originator is permitted to work from home, to review compliance with the procedures listed in this section. Annual visit of a home may be conducted by means of video or telephonic conference or similar communications equipment that allows all persons participating in the visitation to hear each other, provided that participation is controlled and limited to those entitled to attend, and the identity of participants is determinable and reasonably verifiable.

(4) In establishing the procedures in section (2) of this rule and in determining the frequency of office or home reviews, the mortgage banker or mortgage broker shall consider the following:

- (a) The number of loan transactions made by the mortgage banker or mortgage broker;
 - (b) The number of office locations transacting loans with Oregon consumers;
 - (c) The number of affiliated persons assigned to each location;
 - (d) The nature and complexity of the loan transactions that the mortgage banker or mortgage broker predominantly makes;
 - (e) The number of mortgage loan originators assigned to a location;
 - (f) The number of mortgage loan originators assigned to the supervision of an individual supervisor; and
 - (g) The results of previous office reviews.
- (5) In establishing the procedures in section (2) of this rule and in determining the number of files from each mortgage loan originator to be reviewed, the mortgage banker or mortgage broker shall consider the following:
- (a) The knowledge and years of lending experience of a mortgage loan originator;
 - (b) The disciplinary history of and the number of complaints received about a mortgage loan originator;
 - (c) The experience and level of sophistication of the borrowers of a mortgage loan originator, if the mortgage banker, mortgage broker or mortgage loan originator predominantly serves specific segments of society;
 - (d) The nature and complexity of the loan transactions that the mortgage banker or mortgage broker predominantly makes; and
 - (e) The results of previous file reviews for a particular mortgage loan originator.
- (6) The mortgage banker or mortgage broker is subject to disciplinary action of the director for any violation of ORS 86A.095 through 86A.198 or corresponding rules committed by a mortgage loan originator authorized to make or negotiate residential mortgage loans for the mortgage banker or mortgage broker, whether or not that accountability is documented in any written agreement.

STATUTORY/OTHER AUTHORITY: ORS 86A.136, 86A.242

STATUTES/OTHER IMPLEMENTED: ORS 86A.166(1)