

B-Engrossed House Bill 2764

Ordered by the Senate July 4
Including House Amendments dated May 11 and Senate Amendments
dated July 4

Sponsored by Representative WITT (at the request of Oregon Association of Mortgage Brokers)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes loan originator registration for mortgage broker or mortgage banker employees who negotiate with borrowers or potential borrowers to establish loan terms and conditions. **Excludes employees of certain mortgage bankers based upon bankers' ratings.** Establishes educational and continuing education programs and [*registration*] examination for loan originators. Provides exceptions. Establishes duties of [*supervisor of*] **mortgage banker or broker that employs** loan originator. **Prohibits loan originators from engaging in dishonest, fraudulent or illegal practices, failing to meet educational requirements and engaging in certain other activities.**

[*Provides procedure for criminal background checks.*] Modifies disciplinary authority of Director of Department of Consumer and Business Services.

A BILL FOR AN ACT

1
2 Relating to mortgage lending; creating new provisions; and amending ORS 59.840, 59.865, 59.880,
3 59.900, 59.905 and 59.962.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 59.840 is amended to read:

6 59.840. As used in ORS 59.840 to 59.965:

7 (1) "Director" means the Director of the Department of Consumer and Business Services.

8 (2) "Fraud," "deceit" and "defraud" are not limited to common-law deceit.

9 (3) "License" means a license issued to a mortgage banker or mortgage broker under ORS 59.840
10 to 59.965.

11 **(4)(a) "Loan originator" means an individual employed by or purporting to act as an**
12 **agent or independent contractor for a mortgage banker or mortgage broker that is required**
13 **to be licensed under ORS 59.840 to 59.965, with the expectation by the individual of compen-**
14 **sation or gain that is determined by the amount borrowed or the terms and conditions**
15 **agreed to by the mortgage loan borrower, and having primary job responsibilities that in-**
16 **clude negotiating with a borrower or potential borrower for the purpose of establishing the**
17 **terms and conditions of a mortgage loan.**

18 **(b) "Loan originator" includes a person employed at a location outside this state whose**
19 **primary job responsibilities include contacting or attempting to contact a borrower or po-**
20 **tential borrower within this state through any medium or mode of communication for pur-**
21 **poses of providing a mortgage loan within this state.**

22 **(c) "Loan originator" does not include an individual whose responsibilities are clerical or**
23 **administrative functions, including but not limited to gathering information, requesting in-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **formation, word processing, soliciting general interest in mortgage loans, sending corre-**
2 **spondence and assembling files.**

3 **(d) "Loan originator" does not include an employee of a mortgage banker that is rated**
4 **as good or better under the federal rating system in effect on May 1, 2001, for seller-servicers**
5 **of Federal Housing Administration, Federal Home Loan Mortgage Corporation or Federal**
6 **National Mortgage Association loans and that has an office within this state at which the**
7 **mortgage banker maintains complete and current copies of all employment records and other**
8 **records as required by the Director of the Department of Consumer and Business Services**
9 **by order or rule, in a format acceptable to the director.**

10 **(e) "Loan originator" does not include an insurance agent or insurance consultant li-**
11 **censed under ORS 744.002.**

12 **(f) "Loan originator" does not include a person or group of persons exempted by rule or**
13 **order of the director.**

14 [(4)] (5) "Mortgage banker":

15 (a) Means any person who for compensation or in the expectation of compensation:

16 (A) Either directly or indirectly makes, negotiates or offers to make or negotiate a mortgage
17 banking loan or a mortgage loan; and

18 (B) Services or sells a mortgage banking loan.

19 (b) Does not include:

20 (A) A financial institution, as defined in ORS 706.008.

21 (B) A bank holding company, as defined in ORS 706.008, holding an institution described in
22 subparagraph (A) of this paragraph; a savings and loan holding company as defined in section 408
23 of the National Housing Act, 12 U.S.C. 1730a (1982), holding an association described in subpara-
24 graph (A) of this paragraph; the subsidiaries and affiliates of the bank holding company or savings
25 and loan holding company; or subsidiaries and affiliates of institutions described in subparagraph (A)
26 of this paragraph, provided that the appropriate statutory regulatory authority is exercising control
27 over or is regulating or supervising the persons listed in this subparagraph in their mortgage
28 banking activities in accordance with the purposes of ORS 59.840 to 59.965.

29 (C) A person who makes a loan secured by an interest in real estate with the person's own
30 moneys, for the person's own investment and who is not engaged in the business of making loans
31 secured by an interest in real estate.

32 (D) An attorney licensed in this state who negotiates mortgage banking loans or mortgage loans
33 in the ordinary course of business, unless the business of negotiating mortgage banking loans or
34 mortgage loans constitutes substantially all of the attorney's professional activity.

35 (E) A person who, as seller of real property, receives one or more mortgages or deeds of trust
36 as security for a separate money obligation.

37 (F) An agency of any state or of the United States.

38 (G) A person who receives a mortgage or deed of trust on real property as security for an ob-
39 ligation payable on an installment or deferred payment basis and arising out of materials furnished
40 or services rendered in the improvement of that real property or any lien created without the con-
41 sent of the owner of the real property.

42 (H) A person who funds a mortgage banking loan or mortgage loan which has been originated
43 and processed by a licensee or by an exempt person and who does not maintain a place of business
44 in this state in connection with funding mortgage banking loans or mortgage loans, does not directly
45 or indirectly solicit borrowers in this state for the purpose of making mortgage banking loans or

1 mortgage loans and does not participate in the negotiation of mortgage banking loans or mortgage
2 loans. For the purpose of this subparagraph, “negotiation of mortgage banking loans or mortgage
3 loans” does not include setting the terms under which a person may buy or fund a mortgage banking
4 loan or a mortgage loan originated by a licensee or exempt person.

5 (I) A nonprofit federally tax exempt corporation certified by the United States Small Business
6 Administration and organized to promote economic development within this state whose primary
7 activity consists of providing financing for business expansion.

8 (J) A licensee licensed under ORS chapter 725 or a mortgage broker.

9 (K) A retirement or pension fund.

10 (L) An insurer as defined in ORS 731.106.

11 (M) A court appointed fiduciary.

12 (N) Any other person designated by rule or order of the director.

13 [(5)] (6) “Mortgage banking loan” means a loan, extension of credit or a retail sales contract
14 that is funded exclusively from the mortgage banker’s own resources, which is directly or indirectly
15 secured by a mortgage or deed of trust or any lien interest on real estate and which is created with
16 the consent of the owner of the real property. For purposes of this subsection, “own resources”
17 means any of the following:

18 (a) Cash, corporate capital, warehouse credit lines at financial institutions defined in ORS
19 706.008 or other sources that are liability items of the mortgage banker’s financial statements for
20 which its assets are pledged;

21 (b) Correspondent contracts between the mortgage banker and a bank, savings bank, trust
22 company, savings and loan association, credit union, profit sharing or pension trust, a licensee under
23 ORS chapter 725 or an insurance company; or

24 (c) The mortgage banker’s affiliates’ cash, corporate capital, warehouse credit lines at financial
25 institutions defined in ORS 706.008 or other sources that are liability items on the affiliates’ finan-
26 cial statements for which the affiliates’ assets are pledged. As used in this paragraph, “affiliates”
27 means entities that, directly or indirectly, through one or more intermediaries controls, are con-
28 trolled by or are under common control with the entity specified.

29 [(6)] (7) “Mortgage broker”:

30 (a) Means a person who:

31 (A) Engages all or part of the time, for the account of others or for the person’s own account,
32 in the business of selling real estate paper whether as issuer, agent or principal to persons other
33 than persons enumerated in ORS 59.035 (4);

34 (B) Engages all or part of the time, for the account of others or for the person’s own account,
35 in the business of accepting funds from one or more persons other than persons enumerated in ORS
36 59.035 (4) for investment in real estate paper; or

37 (C) For compensation, or in the expectation of compensation, either directly or indirectly makes,
38 negotiates or offers to make or negotiate a mortgage loan.

39 (b) Does not include:

40 (A) A financial institution, as defined in ORS 706.008.

41 (B) A bank holding company, as defined in ORS 706.008, holding an institution described in
42 subparagraph (A) of this paragraph; a savings and loan holding company as defined in section 408
43 of the National Housing Act, 12 U.S.C. 1730a (1982), holding an association described in subpara-
44 graph (A) of this paragraph; the subsidiaries and affiliates of the bank holding company or savings
45 and loan holding company; or subsidiaries and affiliates of institutions described in subparagraph (A)

1 of this paragraph, provided that the appropriate statutory regulatory authority is exercising control
2 over or is regulating or supervising the persons listed in this subparagraph in their mortgage bro-
3 ker activities in accordance with the purposes of ORS 59.840 to 59.965.

4 (C) A person who purchases real property and issues an obligation to finance the transaction
5 to the seller incidentally to the sale.

6 (D) A real estate licensee as defined in ORS 696.010 who performs services solely incidental to
7 the practice of professional real estate activity as defined in ORS 696.010, unless the real estate
8 licensee performs the functions of a mortgage banker or a mortgage broker as defined in this sec-
9 tion.

10 (E) A person licensed under the provisions of ORS chapter 725 or a mortgage banker.

11 (F) A person who makes a loan secured by an interest in real estate with the person's own
12 moneys, for the person's own investment and who is not engaged in the business of making loans
13 secured by an interest in real estate.

14 (G) An attorney licensed in this state who negotiates mortgage loans in the ordinary course of
15 business, unless the business of negotiating mortgage loans constitutes substantially all of the at-
16 torney's professional activity.

17 (H) A person who, as seller of real property, receives one or more mortgages or deeds of trust
18 as security for a separate money obligation.

19 (I) An agency of any state or of the United States.

20 (J) A person who receives a mortgage or deed of trust on real property as security for an obli-
21 gation payable on an installment or deferred payment basis and arising out of materials furnished
22 or services rendered in the improvement of that real property or any lien created without the con-
23 sent of the owner of the real property.

24 (K) A person who funds a mortgage loan which has been originated and processed by a licensee
25 or by an exempt person and who does not maintain a place of business in this state in connection
26 with funding mortgage loans, does not directly or indirectly solicit borrowers in this state for the
27 purpose of making mortgage loans and does not participate in the negotiation of mortgage loans.
28 For the purpose of this subparagraph, "negotiation of mortgage loans" does not include setting the
29 terms under which a person may buy or fund a mortgage loan originated by a licensee or exempt
30 person.

31 (L) A nonprofit federally tax exempt corporation certified by the United States Small Business
32 Administration and organized to promote economic development within this state whose primary
33 activity consists of providing financing for business expansion.

34 (M) A person licensed under ORS 822.020 who provides services customarily associated with the
35 retail sales of manufactured dwellings, including communication of generally available information
36 regarding mortgage loans, unless:

37 (i) The person receives from a purchaser a fee or commission as a mortgage broker or mortgage
38 banker that is disclosed in the sales contract, purchase agreement or applicable federal documents;

39 (ii) For the benefit of a potential purchaser, the person completes a loan application form or
40 other document that is part of a mortgage banking loan and completes a good faith estimate under
41 the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.);

42 (iii) The person solicits or receives credit information from a prospective purchaser for the
43 purpose of making credit decisions; or

44 (iv) The person negotiates with a potential purchaser the terms of a mortgage loan including
45 but not limited to points, interest rates, length of loan or other loan conditions.

1 (N) Any other person designated by rule or order of the director.

2 [(7)] (8) "Mortgage loan" means a loan, extension of credit or retail sales contract, other than
3 a mortgage banking loan, secured by a mortgage or deed of trust or any lien interest on real estate
4 that is created with the consent of the owner of the real estate.

5 [(8)] (9) "Residential mortgage transaction" means a transaction in which a mortgage, deed of
6 trust, purchase money security interest arising under an installment sales contract, or equivalent
7 consensual security interest is created or retained in property upon which four or fewer residential
8 dwelling units are planned or situated, including but not limited to individual units or condominiums
9 and cooperatives. As used in this subsection, "residential dwelling unit" means an improvement de-
10 signed for residential occupancy.

11 **SECTION 2. Sections 3 to 9 of this 2001 Act are added to and made a part of ORS 59.840**
12 **to 59.965.**

13 **SECTION 3. (1) The Legislative Assembly finds and declares that:**

14 (a) **The public interest is served by identifying a loan originator with a specific mortgage**
15 **banker or mortgage broker; and**

16 (b) **The public must be protected from the conflicts of interest created when a loan**
17 **originator is employed by more than one mortgage lender.**

18 (2) **A loan originator may not originate loans for more than one mortgage banker,**
19 **mortgage broker or other mortgage lender or independent mortgage agency at the same**
20 **time.**

21 **SECTION 4. (1) A mortgage banker or mortgage broker must provide to the Director of**
22 **the Department of Consumer and Business Services, and keep current, a list of loan origi-**
23 **nators employed by the banker or broker. The banker or broker shall notify the director**
24 **within 30 days of the employment or termination of employment of a loan originator.**

25 (2) **An applicant for issuance of a mortgage banker or mortgage broker license under**
26 **ORS 59.850 shall include with the application evidence acceptable to the director that each**
27 **person the applicant has hired or intends to hire as a loan originator has:**

28 (a)(A) **Successfully completed an entry level training course approved or provided by an**
29 **organization certified by the director as described in section 9 of this 2001 Act; and**

30 (B) **Passed an examination, approved or provided by an organization described in section**
31 **9 of this 2001 Act, on laws and rules relating to mortgage lending in this state; or**

32 (b) **If the person has been employed as a loan originator for two or more years in this**
33 **state, completed continuing education as required by the director pursuant to section 8 of**
34 **this 2001 Act.**

35 (3) **A mortgage banker or mortgage broker that applies for renewal of a license pursuant**
36 **to ORS 59.855 shall include with the application evidence acceptable to the director that each**
37 **person employed by the banker or broker as a loan originator has:**

38 (a)(A) **Successfully completed an entry level training course approved or provided by an**
39 **organization certified by the director as described in section 9 of this 2001 Act; and**

40 (B) **Passed an examination, approved or provided by an organization described in section**
41 **9 of this 2001 Act, on laws and rules relating to mortgage lending in this state; or**

42 (b) **If the person has been employed as a loan originator for two or more years in this**
43 **state, completed continuing education as required by the director pursuant to section 8 of**
44 **this 2001 Act.**

45 (4) **An applicant under subsection (2) or (3) of this section shall, at the time of applica-**

1 **tion:**

2 (a) Certify that, to the best of the applicant's belief, no person the applicant employs or
3 intends to employ as a loan originator has engaged in conduct that would constitute a vio-
4 lation of section 3 (2) or 6 of this 2001 Act; or

5 (b) Note any exceptions to the certification made in paragraph (a) of this subsection. An
6 applicant is not subject to an action at law for making a notation under this paragraph in
7 good faith.

8 (5) A mortgage banker or mortgage broker may voluntarily report to the director re-
9 garding employees who would qualify as loan originators if not exempted under ORS 59.840
10 (4). Voluntary reporting by a banker or broker under this subsection does not make the re-
11 ported employees subject to training, examination or continuing education requirements or
12 other laws governing loan originators.

13 (6) The director shall keep records that include notifications filed under subsection (1)
14 of this section and exceptions to certifications under subsection (4) of this section. The di-
15 rector shall retain the records for a period of not less than three years. The director shall
16 keep for 10 years a record of any complaint against a loan originator that has been deter-
17 mined to be justified pursuant to section 7 of this 2001 Act.

18 (7) Notwithstanding subsections (1) to (3) of this section and ORS 59.865 (17) and sections
19 6 (4) and 8 of this 2001 Act, the director, by rule, may waive any training, examination or
20 continuing education requirement for a loan originator for a period not to exceed six months
21 after the person begins or resumes employment as a loan originator.

22 **SECTION 5.** Notwithstanding section 4 of this 2001 Act, for a filing made pursuant to
23 ORS 59.850 or 59.855 within two years after the effective date of this 2001 Act, a person who
24 is employed as a loan originator on the effective date of this 2001 Act and who has at least
25 three years of full-time experience as a loan originator on the effective date of this 2001 Act
26 is considered to have met the applicable training, examination and continuing education re-
27 quirements of section 4 (2) and (3) of this 2001 Act. After the filing of any application de-
28 scribed in this section, the loan originator is subject to the continuing education
29 requirements established pursuant to section 8 of this 2001 Act. The two-year period for the
30 loan originator to comply with continuing education requirements is measured from the fil-
31 ing date of the first application described in this section that lists the loan originator.

32 **SECTION 6.** A person employed by a mortgage banker or mortgage broker as a loan
33 originator may not:

34 (1) Engage in dishonest, fraudulent or illegal practices or conduct in any business or
35 profession or engage in unfair or unethical practices or conduct in connection with the
36 mortgage business.

37 (2) Willfully or repeatedly violate or fail to comply with a provision of ORS 59.840 to
38 59.965 or a rule or order of the Director of the Department of Consumer and Business Ser-
39 vices.

40 (3) Fail to account to persons interested for all money or property received in connection
41 with a mortgage loan.

42 (4) Fail to meet the training, education or continuing education requirements for loan
43 originators.

44 **SECTION 7.** (1) If the Director of the Department of Consumer and Business Services
45 receives a complaint against a loan originator for a violation of section 3 (2) or 6 of this 2001

1 Act, the director may notify the loan originator and the mortgage banker or mortgage bro-
2 ker employing the loan originator.

3 (2) The director may investigate a complaint against a loan originator. Upon the conclu-
4 sion of the investigation, the director shall promptly notify the loan originator and the
5 mortgage banker or mortgage broker employing the loan originator of the director's pro-
6 posed determination regarding the complaint.

7 (3) Any hearing on a complaint must be conducted as provided by rules of the director
8 and pursuant to ORS 183.310 to 183.550.

9 (4) If the director determines, after opportunity for hearing, that a complaint is justified,
10 the director shall note the complaint in the records kept pursuant to section 4 (6) of this 2001
11 Act. For a violation of section 3 (2) or 6 of this 2001 Act, the director may impose require-
12 ments for supervision and remedial education of the loan originator, assess civil penalties
13 against the loan originator as provided in ORS 59.996 or refer the matter for criminal pros-
14 ecution pursuant to ORS 59.992.

15 **SECTION 8.** The Director of the Department of Consumer and Business Services shall,
16 by rule, establish continuing education requirements for persons employed by mortgage
17 bankers or mortgage brokers as loan originators. The requirements established by the di-
18 rector may not be less than 10 hours every two years and not more than 20 hours every two
19 years. The continuing education must be obtained through continuing education programs
20 approved or provided by an organization whose continuing education curriculum and testing
21 is certified by the director as described in section 9 of this 2001 Act.

22 **SECTION 9. (1)** The Director of the Department of Consumer and Business Services may
23 certify an organization as qualified to approve or provide entry-level training or continuing
24 education curricula and testing for loan originators. The director, by rule, shall establish
25 criteria for certifying an organization under this subsection.

26 (2) The director, by rule, may provide for the acceptance or conditional acceptance of
27 continuing education hours completed pursuant to the laws of another state that the director
28 determines provide protection to the public that exceeds or is substantially similar to the
29 protection provided by ORS 59.840 to 59.965.

30 **SECTION 10.** ORS 59.865 is amended to read:

31 59.865. Except as provided in ORS 59.870, the Director of the Department of Consumer and
32 Business Services may by order deny, suspend, **condition** or revoke a license of a person as a
33 mortgage banker or mortgage broker if the director finds that the applicant or licensee:

34 (1) Is insolvent, either in the sense that the liabilities of the applicant or licensee exceed the
35 assets of the applicant or licensee or that the applicant or licensee cannot meet the obligations of
36 the applicant or licensee as *[they]* **the obligations** mature, or is in such financial condition that the
37 applicant or licensee cannot continue in business with safety to the customers of the applicant or
38 licensee.

39 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or pro-
40 fession or unfair or unethical practices or conduct in connection with the mortgage business.

41 (3) Has willfully or repeatedly violated or failed to comply with any provision of ORS 59.840 to
42 59.965 or any rule or order of the director.

43 (4) Has been convicted of a misdemeanor, an essential element of which is fraud, or of a felony.

44 (5) Has filed an application for a license [*which*] **that**, as of the date the license was issued, or
45 as of the date of an order denying, suspending, **conditioning** or revoking a license, was incomplete

1 in any material respect or contained any statement that was, in light of the circumstances under
2 which it was made, false or misleading with respect to any material fact.

3 (6) Has failed to account to persons interested for all money or property received **in connection**
4 **with a mortgage loan.**

5 (7) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging
6 in or continuing any conduct or practice involving any aspect of the mortgage business.

7 (8) Is the subject of an order of the director denying, suspending, **conditioning** or revoking a
8 license as a mortgage banker or mortgage broker.

9 (9) Is the subject of a United States Postal Service fraud order that is currently effective and
10 was issued within the last five years.

11 (10) Does not have the experience required by ORS 59.850 (2) or (3).

12 (11) Has failed to comply with the requirements of ORS 59.860 to make and keep records pre-
13 scribed by rule or order of the director, to produce such records required by the director or to file
14 any financial reports or other information the director by rule or order may require.

15 (12) Is the subject of an order of the director denying, suspending, **conditioning** or revoking a
16 license under the provisions of any other law administered by the director.

17 (13) Is the subject of a cease and desist order entered after notice and opportunity for hearing
18 and issued by the director within the last five years.

19 (14) Has demonstrated negligence or incompetence in performing any act for which the licensee
20 is required to hold a license.

21 **(15) Has failed to supervise diligently and control the mortgage-related activities of a loan**
22 **originator employed by the licensee.**

23 **(16) Has knowingly misrepresented to the director the training of, examination of or**
24 **continuing education time earned by a loan originator employed by the licensee.**

25 **(17) Has willfully or repeatedly employed persons as loan originators who do not meet the**
26 **training, education or continuing education requirements for loan originators.**

27 **(18) Has failed to notify the director of the termination of a loan originator for failure**
28 **to comply with state or federal laws, regulations or rules.**

29 **SECTION 11.** ORS 59.880 is amended to read:

30 59.880. The Director of the Department of Consumer and Business Services shall have general
31 supervision and control over all **loan originators**, mortgage bankers and mortgage brokers residing
32 or doing business in this state and engaged in any activity subject to the provisions of ORS 59.840
33 to 59.965. All such persons and their records and everything connected with their activities shall
34 be subject to examination by the director at any time. The provisions of this section and of any
35 other section of ORS 59.840 to 59.965 relating to examinations shall extend to any person who
36 should have been **reported as a loan originator under section 4 of this 2001 Act** or licensed as
37 a mortgage banker or mortgage broker, any person exempted by rule from those definitions or any
38 person whose license has expired or has been withdrawn, canceled, suspended, **conditioned** or re-
39 voked. The director may collect from each such person the actual expenses incurred in that exam-
40 ination.

41 **SECTION 12.** ORS 59.900 is amended to read:

42 59.900. (1) In accordance with this section and ORS 183.310 to 183.550, the Director of the De-
43 partment of Consumer and Business Services may from time to time make, amend and rescind such
44 rules as are necessary to carry out the provisions of ORS 59.840 to 59.965, including **but not limited**
45 **to rules governing the activities of loan originators, mortgage bankers and mortgage brokers**

1 **and** rules governing the purchase or sale of mortgage banking loans, mortgage loans or real estate
2 paper in coordination with applicable provisions of ORS 59.005 to 59.451, 59.660 to 59.830, 59.991 and
3 59.995 and rules adopted thereunder.

4 (2) Any financial statement required under ORS 59.840 to 59.965 shall be prepared in accordance
5 with generally accepted accounting principles. The director may by rule prescribe:

6 (a) The form and content of financial statements required under ORS 59.840 to 59.965;

7 (b) The circumstances under which consolidated financial statements shall be filed; and

8 (c) Whether any required financial statements shall be certified by independent or certified
9 public accountants.

10 **SECTION 13.** ORS 59.905 is amended to read:

11 59.905. (1) Except as provided in ORS 183.090, upon the entry of an order under ORS 59.840 to
12 59.965, the Director of the Department of Consumer and Business Services shall promptly give ap-
13 propriate notice of the order as provided in this subsection. The notice shall state that a hearing
14 will be held on the order if a written demand for hearing is filed with the director within 20 days
15 after the date of service of the order. The notice shall be given to:

16 (a) The applicant or licensee with respect to orders entered pursuant to ORS 59.865;

17 **(b) The loan originator and the licensee employing the loan originator with respect to**
18 **orders entered pursuant to section 7 of this 2001 Act; or**

19 ~~[(b)]~~ (c) All interested persons with respect to orders entered pursuant to any other provision
20 of ORS 59.840 to 59.965.

21 (2) If timely demand for a hearing is filed by a person entitled to notice of the order, the director
22 shall hold a hearing on the order as provided by ORS 183.310 to 183.550. In the absence of a timely
23 demand for a hearing, ~~[no]~~ a person ~~[shall be]~~ **is not** entitled to judicial review of the order.

24 (3) After the hearing, the director shall enter a final order vacating, modifying or affirming the
25 order.

26 (4) The director may enter a final order revoking a license notwithstanding the fact that the
27 license has expired, if the initial order of revocation was issued prior to expiration of the license
28 or registration.

29 **SECTION 14.** ORS 59.962 is amended to read:

30 59.962. (1) With the permission of the lender, note owner, note holder or other holder of an in-
31 terest in a note, a mortgage banker or mortgage broker may service or collect any mortgage bank-
32 ing loan or mortgage loan in its own name or the name of the lender, note owner, note holder or
33 other holder of an interest in the note.

34 (2) Except as provided in ORS 59.840 to 59.965, nothing in subsection (1) of this section is in-
35 tended to grant the Director of the Department of Consumer and Business Services the authority
36 to regulate the servicing or collection of any mortgage banking loan or mortgage loan by a mort-
37 gage banker or mortgage broker.

38 (3) As used in this section:

39 (a) "Mortgage banker" has the meaning given that term in ORS 59.840 ~~[(4)(a)]~~ **(5)(a)** but also
40 includes those persons exempted from the definition of mortgage banker in ORS 59.840 ~~[(4)(b)]~~
41 **(5)(b)**.

42 (b) "Mortgage banking loan" has the meaning given that term in ORS 59.840.

43 (c) "Mortgage broker" has the meaning given that term in ORS 59.840.

44 (d) "Mortgage loan" has the meaning given that term in ORS 59.840.

45 (e) "Service or collect any mortgage banking loan or mortgage loan" includes but is not limited

1 to:

2 (A) Holding documents or written instruments and receiving and disbursing payments according
3 to the instructions of the parties to the documents or written instruments;

4 (B) Collecting or remitting, or having the right or obligation to collect or remit, for any lender,
5 note owner, note holder or other holder of an interest in a note or for a mortgage banker's or
6 mortgage broker's own account, payments, interest, principal and trust items, including but not
7 limited to hazard insurance and taxes, on a mortgage banking loan or mortgage loan in accordance
8 with the terms of the loan, and includes loan payment follow-up, delinquency loan follow-up, loan
9 analysis and any notifications to the borrower that are necessary to enable the borrower to keep
10 the loan current and in good standing; and

11 (C) Bringing and maintaining any suit or action to collect any amounts owed on a mortgage
12 banking loan or mortgage loan, including but not limited to the exercise of any contractual, statu-
13 tory or common law remedies such as injunction, specific performance, judicial or nonjudicial fore-
14 closure or receivership.

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