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| SELLER-CARRIED FINANCING | NOTES |
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| Background. Oregon law requires that unless exempted, an individual must have a mortgage loan originator ("MLO") [e.g. mortgage bankers or mortgage brokers] license if he/she: | |
| Takes a residential mortgage loan application; or | |
| Negotiates the terms or conditions of a residential mortgage loan. | |
| The federal Secure and Fair Enforcement for Mortgage Lending Act ("S.A.F.E. Act") of 2008 requires that MLOs register with the Oregon | |
| Department of Business and Consumer Services ("DCBS"). As required by the S.A.F.E. Act, all states must adopt their own set of | |
| laws governing MLOs. Oregon's version is found at ORS 86A.200 to 86A.239 The Consumer Finance Protection Bureau (CFPB"), a Dodd-Frank created mega-agency, and DCBS have taken the position that | |
| the S.A.F.E. Act applies not only to third-party loans, but also to seller- carried transactions, including manufactured homes both inside and | |
| outside of parks. | |
| Oregon MLO Laws. An individual may not engage in business as a mortgage loan originator in Oregon without first: | |
| Obtaining and maintaining a MLO license; and | |
| Obtaining a unique identifier from the <u>Nationwide Mortgage</u> <u>Licensing System and Registry ("NMLS")</u>. | |
| Exemptions to MLO Laws: | |
| A registered MLO acting within the scope of their employment; | |
| One who offers or negotiates terms of a residential mortgage loan with or on behalf of the individual's spouse, child, | |
| sibling, parent, grandparent, grandchild or a relative in a similar relationship with the individual that is created by law, marriage or adoption; | |
| One who offers or negotiates terms of a residential mortgage loan that is secured by a dwelling that served as the | |
| individual's residence; | |
| An Oregon-licensed attorney [subject to limitations]: | - |
| An individual licensed as a manufactured structure dealer under <u>ORS 446.691</u> and who: | |
| Offers or negotiates terms of a residential mortgage loan related to a sale for occupancy of a <u>previously</u> | |
| <u>owned</u> manufactured dwelling in a manufactured dwelling park three (3) or fewer times in any 12-month period; and | |
| Uses a written sale agreement form with the | |

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| purchaser that: (a) complies with the requirements of ORS 646A.050, 646A.052 and 646A.054; (b) with any applicable administrative rules; and (c) any other applicable requirements for residential mortgages for manufactured dwellings. | |
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| Note: This exemption does not permit the individual to hold more than eight (8) residential mortgage loans at any one time. | |
| An individual who is licensed as a limited manufactured structure dealer, and who: | |
| Has an ownership interest in a manufactured dwelling park; | |
| Offers or negotiates terms of a residential mortgage loan related to a sale for occupancy of a previously | |
| owned manufactured dwelling in any manufactured dwelling park in which the individual has an | |
| ownership interest, five (5) or fewer times in any 12-month period; and | |
| Uses a written sale agreement form with the purchaser that: (a) complies with the requirements of ORS 646A.050, 646A.052 and 646A.054, (b) with | |
| any applicable administrative rules, and (c) with any other applicable requirements for residential | |
| mortgages for manufactured dwellings. o This exemption does not permit the individual to hold more than twelve (12) residential mortgage loans at | |
| any one time. | |
| An employee of a licensed manufactured structure dealer is not subject to the MLO licensing requirements if the | |
| employee: o Performs only administrative or clerical tasks; and | |
| Receives only a salary or commission that is customary among dealers and employees of dealers. | |
| An employee of a dealer may become subject to the licensing provisions if the CFPB determines, in a guideline, rule, regulation or interpretive letter that this exemption granted is | |
| regulation or interpretive letter that this exemption granted is inconsistent with requirements set forth in <u>12 U.S.C. 5101</u> et. seq. (S.A.F.E. Act) | |
| Oregon Laws Re Form of Purchase Agreement. [Note: Although the | |
| following laws apply to manufactured dwelling dealers, they will <u>also</u> apply to persons otherwise exempted from the MLO licensing laws.] | |
| "Purchase agreement" means the written contract between | |
| the manufactured dwelling dealer and the buyer for the | |
| purchase of a manufactured dwelling."Purchase agreement" does not include a retail installment | |
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| | contract or loan agreement entered into as part of the purchase transaction. | |
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| • | A manufactured dwelling dealer who sells a manufactured dwelling shall use a purchase agreement form that complies with this section and rules adopted in accordance with ORS 646A.054. [This statute enables the Oregon Department of Justice to adopt administrative rules identifying unlawful | |
| | practices. Those rules can be found at the <u>link here</u> . ¹] | |
| • | Of particular importance is 441-446-0203 (Exemptions from | |
| | Mortgage Loan Originator Licensing): o In addition to the statutory provisions relating to the | |
| | MLO licensing exemptions, the following conditions apply: | |
| | Only one limited manufactured structure | |
| | dealer licensee per manufactured dwelling | |
| | park may claim the exemption from licensing; A manufactured structure dealer may offer or | |
| | negotiate the terms of a residential mortgage | |
| | loan in a manufactured dwelling park where a | |
| | limited manufactured structure dealer claims an exemption under ORS 86A.203(2)(f), but | |
| | the manufactured structure dealer may not | |
| | acquire or hold an ownership interest in the | |
| | manufactured dwelling park or in the business entity holding the limited manufactured | |
| | structure dealer license; | |
| | A MLO may offer or negotiate terms for a | |
| | residential mortgage loan on behalf of a dealer who holds the statutory maximum | |
| | number of loans set out in ORS 86A.203(3) or | |
| | (4), as applicable to that dealer;A dealer must verify, whether through NMLS | |
| | Consumer Access or other means that the | |
| | MLO retained to complete a transaction under | |
| | this section meets the requirements of MLO licensing law. | |
| • | For purposes of establishing the maximum number of | |
| | residential mortgage loans a dealer may offer or negotiate without a mortgage loan originator license, this rule applies | |
| | to residential mortgage loans made on or after July 31, 2010. | |
| • | The purchase agreement shall include the base price ² and a | |
| | written itemization that clearly and discloses the retail prices | |
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¹ http://arcweb.sos.state.or.us/pages/rules/oars 400/oar 441/441 446.html

² As used in this section and ORS 646A.052: (1) "Base price" means the total retail cost of the following unless separately disclosed as described in ORS 646A.052 (2): (a) The manufactured dwelling as provided by

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| 0 | Manufactured dwelling options that are ordered by the buyer. | |
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| 0 | The amount of any refundable or nonrefundable | |
| | administrative or processing fees paid to or collected | |
| | by the dealer and the circumstances under which the | |
| | fees may be returned to the buyer. | |
| 0 | The amount of any earnest money paid and the | |
| | circumstances under which the earnest money may | |
| | be returned to the buyer. | |
| 0 | Improvements provided by the dealer, or by a third | |
| _ | party at the request of the dealer, to the extent known | |
| | to the dealer at the time of sale. | |
| | Note: The written itemization of | |
| | improvements under this paragraph excuses | |
| | the dealer from providing the buyer with a | |
| | separate statement of estimated costs under | |
| | ORS 90.518 (Oregon landlord-tenant law) for | |
| | those itemized improvements. ³ | |
| 0 | All loan fees and credit report fees paid to or collected | |
| | by the dealer to obtain financing for the buyer's | |
| | purchase of the manufactured dwelling and the | |
| | circumstances under which the fees may be returned | |
| | to the buyer. | |
| 0 | Alterations and upgrades to the manufactured | |
| | dwelling made by the dealer or by a third party at the | |
| | request of the dealer. | |
| 0 | Goods and services provided by the dealer, or by a | |
| | third party at the request of the dealer, that are not | |
| | otherwise disclosed pursuant to this section. | |
| 0 | Fees for the issuance or updating of an ownership | |
| | document. | - |
| 0 | The extended warranty contract, if any. | |
| 0 | Delivery, installation or site access costs that are not | |
| | otherwise disclosed pursuant to this section, if any. | |
| 0 | The purchase agreement form must be accompanied | |
| | by a list, provided by the Department of Justice, of | |
| | governmental consumer protection agencies having | |
| | jurisdiction over manufactured dwelling issues. | |
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the manufacturer; (b) Features added by the dealer, if any; (c) Freight; and (d) Delivery and installation as stated in the purchase agreement.

³ "Improvements" means goods and services not included in the base price that are, in general, needed to prepare a site and complete the setup of a manufactured dwelling. "Improvements" includes, but is not limited to, permits, site preparation, sidewalks, concrete, utility connections, skirting, steps, railings, decks, awnings, carports, garages, sheds, gutters, downspouts, rain drains, heat pumps, air conditioning, basements, plants and landscaping, installation fees and system development charges.

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| Failure of a manufactured dwelling dealer to use a purchase agreement form that complies with this section and rules adopted in accordance with ORS 646.608. | |
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| Except as provided in ORS 41.740 (parol evidence rule), a purchase agreement is considered to contain all of the terms of the contract | |
| between the buyer and the manufactured dwelling dealer. No evidence of the terms of the contract may be presented other than the contents of the purchase agreement. | |
| the contents of the parenase agreement. | |
| As used in this subsection, "contract" does not include a retail installment contract or loan agreement entered into as part of a purchase transaction. | |
| • See: http://www.oregonlaws.org/ors/83.510-83.680 for | |
| Oregon laws governing retail installment contacts; | |
| See: http://www.oregonlaws.org/ors/82.150 for laws governing logonlaws.org/ors/82.150 | |
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| <u>About the Instructor</u> : Phil Querin, Querin Law LLC, has served as legal counsel for two major housing industry groups: Manufactured Housing Communities of | |
| Oregon ("MHCO") for over 15 years, and the Portland Metropolitan Association of REALTORS [®] ("PMAR") for over 20 years. He writes all of the legal forms for | |
| MHCO, and as legal counsel for the Forms Committee of Oregon Real Estate Forms, LLC, authors all of the legal forms for Realtors throughout Oregon. He is | |
| a frequent speaker and prolific writer. Visit <u>www.q-law.com</u> for more information on real estate, finance and economics issues of the day. | |
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