

A-Engrossed
House Bill 2637

Ordered by the House April 3
Including House Amendments dated April 3

Sponsored by Representative LIVELY; Representatives BARNHART, GOMBERG, NATHANSON, Senators DEMBROW, GELSER (Pre-session filed.)

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.

[Provides that material misrepresentations in commercial communications about mortgage credit products constitutes unlawful trade practice.] Prohibits person from knowingly omitting from advertisement for mortgage credit product clear and conspicuous statement that identifies person that offers or promotes mortgage credit product. Prohibits person from stating or representing that person offers mortgage credit product in connection with another person unless person enters into written agreement with other person or obtains written consent. Requires persons [who disseminate commercial communications regarding] that offer or promote mortgage credit products in advertisement to [maintain] keep specified records demonstrating compliance with Act for 24-month retention period. Provides that person's failure to keep specified records is unlawful trade practice.

A BILL FOR AN ACT

1
2 Relating to advertising of mortgage-related services; creating new provisions; and amending ORS
3 646.607.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) "Advertisement" means a message that promotes a mortgage credit product directly
7 or indirectly and that is transmitted through any medium, including but not limited to a
8 print, electronic or oral medium.

9 (b) "Consumer" means a natural person.

10 (c) "Credit" means a right to defer paying a debt or the right to incur a debt and defer
11 paying the debt.

12 (d) "Dwelling" means a residential structure with one to four housing units, whether or
13 not the structure is attached to real property, an individual condominium unit, an individual
14 cooperative unit, a manufactured home or a floating home.

15 (e) "Mortgage credit product" means a form of credit that is secured by real property
16 or a dwelling and that is offered or extended to a consumer primarily for personal, family
17 or household purposes.

18 (2) A person may not in an advertisement:

19 (a) Knowingly omit a clear and conspicuous statement that identifies the person that
20 offers or promotes a mortgage credit product; or

21 (b) Make a statement or representation that the person offers a mortgage credit product
22 in connection with another person, with another person's approval or at another person's
23 request unless the person has entered into a written agreement with the other person, or

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 **has otherwise obtained written approval or consent from the other person, to make the**
2 **statement or representation.**

3 **(3)(a) A person that is subject to subsection (2) of this section shall keep copies of all**
4 **advertisements that offered or promoted a mortgage credit product, including scripts and**
5 **training materials for advertisements the person disseminated orally, for a period of 24**
6 **months after the person last disseminated the advertisement.**

7 **(b) A person may keep the copies and materials described in paragraph (a) of this sub-**
8 **section in the same manner and place in which the person keeps business records in the**
9 **ordinary course of business.**

10 **(4) A person's failure to keep the copies and materials described in subsection (3) of this**
11 **section is an unlawful practice under ORS 646.607 that is subject to enforcement under ORS**
12 **646.632.**

13 **SECTION 2.** ORS 646.607 is amended to read:

14 646.607. A person engages in an unlawful practice if in the course of the person's business, vo-
15 cation or occupation the person:

16 (1) Employs any unconscionable tactic in connection with selling, renting or disposing of real
17 estate, goods or services, or collecting or enforcing an obligation;

18 (2) Fails to deliver all or any portion of real estate, goods or services as promised, and at a
19 customer's request, fails to refund money that the customer gave to the person to purchase the
20 undelivered real estate, goods or services and that the person does not retain pursuant to any right,
21 claim or defense the person may assert in good faith. This subsection does not create a warranty
22 obligation and does not apply to a dispute over the quality of real estate, goods or services delivered
23 to a customer;

24 (3) Violates ORS 401.965 (2);

25 (4) Violates a provision of ORS 646A.725 to 646A.750;

26 (5) Violates ORS 646A.530;

27 (6) Employs a collection practice that is unlawful under ORS 646.639;

28 (7) Is a beneficiary that violates ORS 86.726 (1)(a) or (2), 86.729 (4) or 86.732 (1) or (2); [or]

29 (8) Violates ORS 646A.093[.]; **or**

30 **(9) Violates section 1 of this 2015 Act.**

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