Hello,

You are invited to the following event:

Save the Date! When Your Borrower Goes to Pot

Event to be held at the following time, date, and location:
Thursday, March 10, 2016 from 7:30 AM to 9:30 AM (PST)
Bend Golf & Country Club
61045 Country Club Drive
Bend, OR 97702

View Map

Attend Event

Save the Date for a morning panel discussion on "When Your Borrower Goes to Pot"! Our panel will include an attorney, a real estate professional, and a banking representative.

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Cheers,
Risk Management Association - East Cascades Chapter

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Federal law still a hurdle for pot businesses

Banks, Realtors, insurance companies reluctant to support the industry

By Joseph Dittler, The Bulletin, @josephdittler
Published Mar 13, 2016 at 12:01AM

When the owners of Plantae Health (http://www.plantaehealth.com/) wanted to open a medical marijuana dispensary in Bend, their third in Central Oregon, they looked at dozens of possible locations.

"I spent a lot of time and had a lot of people look for a place," said Andrew Anderson, co-owner with his wife, Joceilyn, of Plantae Health, which operates dispensaries in Madras and Prineville. "We've been looking since last November, and we've seen a lot of unreasonable prices."

Opening a marijuana-related business continues to be difficult for those in the industry due to a conflict between state and federal laws that affects nearly every step, from location to leasing to withholding employee taxes.
Oregon voters legalized commercial marijuana within the state when they legalized recreational marijuana with Measure 91 in November 2014. Yet, the U.S. Controlled Substances Act labels marijuana a dangerous, illegal drug, without medical benefits.

Since Jan. 4, the Oregon Liquor Control Commission (http://www.oregon.gov/olcc/marijuana/Pages/default.aspx) has accepted 17 license applications from prospective marijuana businesses in Cochise County. The number of applicants from Bend was not immediately available, although Mark Pettinger, spokesman for the OLCC recreational marijuana program, said no licenses have been issued yet. Of 19 existing medical marijuana dispensaries in Bend, only one does not sell recreational marijuana.

At least 11 applicants, some of them existing businesses, have filed paperwork with the city indicating they plan to open a retail marijuana dispensary, an indoor marijuana farm or a facility to process marijuana or produce edible marijuana products.

A stigma still attaches to the marijuana business. Of four applicants or their representatives contacted for this article, two agreed to speak. Two declined, one saying he didn’t wish to jeopardize a lease before it was finalized, the fourth, a lawyer for a license applicant, said he did not wish to attract attention to the firm by speaking on the record.

Tricky financing

Some existing marijuana businesses found financing from private investors, friends or family; others found willing owners to lease property or bought property outright. Working with banks and real estate brokers in Bend has been difficult, business owners have said. While the U.S. Justice Department under the Obama administration issued guidelines that allow banks and related businesses to do business with the marijuana sector, those guidelines do not have the force of law and could be reversed in the next presidential administration.

Most bankers say the expense of complying with those guidelines, and uncertainty over the federal approach to legal marijuana in Oregon, prompt them to hold those businesses at arm’s length.

"It is a cash industry right now," said Kevin Christiansen, government affairs director for the Oregon Bankers Association. "Most folks don’t have access to payment systems; they’re not allowed or able to open accounts. There are a few exceptions here and there, but by and large, I think most financial institutions have purposely shied away from getting involved in this particular space."

And it’s not just the financial sector. The reluctance of bankers to open accounts, lend money and provide other services to marijuana businesses extends to real estate brokers, insurance providers and title and escrow companies.

"Looking at all this as it’s presently stated, it’s just fraught with huge risks," said David Cresswell, a managing partner at the Bal Jansk law firm. "If you’re a regulated institution, you’re taking about things like losing your charter, losing deposit insurance, being prosecuted or an individual (bank) officer being prosecuted, it’s a parade of horribles."

Cresswell, Christiansen and Pat Keagard, president of Compass Commercial Real Estate Services, Bend, spoke Thursday at a panel discussion on marijuana, banking and real estate hosted by the Risk Management Association, East Cascades Chapter. Keagard repeated the stance his firm has taken, a position he’s made clear at previous public forums.

"My advice was, don’t do leases, don’t get involved in representing landlords, tenants, whatever, in this industry," he said Thursday during the discussion at the Bend Golf and Country Club. "It is fraught with problems. The liabilities don’t just stop with the Realtor."

In Bend, city officials treat applications for businesses that would grow or process marijuana as they would any other business, said Colin Stephens, planning manager for the Community Development Department. Recreational marijuana shops and medical marijuana dispensaries are the exception, he said. They may not be located with 1,000 feet of one another or a school, according to state law, or within 150 feet of a day care center or public park, according to city law.

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So far, only medical marijuana shops may sell small amounts of recreational marijuana to any member of the public age 21 or over. Licenses for recreational marijuana shops, regulated by the OLCC, are expected later this year. House Bill 4094 (https://olis.leg.state.or.us/liz/2016R1/Measures/Overview/HB4094), passed by the Legislature but still awaiting Gov. Kate Brown’s signature, would lift prohibitions in state law against financial transactions involving marijuana. It does not affect federal law affecting banks, however, under which most banks operate. Another bill, Senate Bill 1511 (https://olis.leg.state.or.us/liz/2016R1/Measures/Overview/SB1511), if signed by Brown, would allow recreational dispensaries to sell medical marijuana.

Some tenants in the marijuana business attempt to cloak their activities behind some other front, or simply don’t tell the truth about what their doing, Kesgard said. That has led to eviction in several cases, Kesgard said.

“We try to put in every lease a provision that if you engage in any industry related to marijuana, you’re in default of your lease,” Kesgard said.

Not all averse

Not every property owner or real estate broker is averse to dealing with marijuana businesses, as the Andersons discovered. They located a property on Bend’s east side that met city code and belonged free and clear to a willing owner, Kruse Properties LLC, of Fort Rock. Mike Hoover, principal broker with Partners Property Managers & Sales, in Bend, which represents Kruse, said the Andersons met several benchmarks: a track record running similar businesses, solid financial backing and a reasonable business plan.

The owner of Kruse Properties, after the Andersons approached him, visited the Madras location and came away “so amazingly impressed that it gave him that next level of comfort that the decision was OK,” Hoover said.

He said the existing tenants in the property, a strip center at 2115 NE U.S. Highway 20, were approached about having a dispensary as a neighbor.

“Some didn’t care at all,” Hoover said. “Some had mild concerns and would ask questions about the types of clients, foot traffic, loitering, what would happen if there were problems.”

And the Andersons also pay a higher lease rate to cover the higher insurance costs that the property owner incurred by leasing to them, Hoover said. He said the property owner considered the amount of traffic and type of clientele the dispensary would attract, among other questions, before agreeing to lease the Andersons the property. Hoover declined to identify his client, but Oregon records indicate Kenneth Kruse is the manager of the firm.

Transparency

Jocelyn Anderson said she and her husband are transparent about their businesses. In Madras, for example, they invited members of the Madras-Jefferson County Chamber of Commerce for a tour of their dispensary in October.

“We would always prefer to be upfront,” she said Wednesday. “Generally, when we show what our other stores look like, people are a lot more comfortable.”

Hoover said he’s received numerous inquiries about commercial property since recreational marijuana became legal in Oregon. But most would-be marijuana business owners cannot meet the criteria set by banks, real estate brokers and property owners. The Andersons may end up his only clients in the marijuana business, he said.

“If I were asked to represent somebody and go out and find it (again), there would be a lot of difficulties. Probably what has already happened is the people that are looking for those locations are doing the heavy lifting themselves,” Hoover said. “It’s pretty time consuming, especially in Bend, where the (economic) recovery is going so well and we don’t have very many vacancies.”

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Federal law still a hurdle for pot businesses; Banks, Realtors, insurance companies reluctant...
Hello Willie Nelson,

You are invited to the following event:

"TAKE ANOTHER HIT AT MARIJUANA BANKING"

Event to be held at the following time, date, and location:

Thursday, April 13, 2017 from 11:30 AM to 1:00 PM (PDT)

Bend Park and Recreation Riverbend Community Room 799 SW Columbia Street Bend, Oregon 97702

View Map

Share this event:

- RMA East Cascades Chapter is excited to present "Take Another Hit At Marijuana Banking", part two of our cannabis industry & banking panel series.
- While still illegal on the federal level, 2016 Oregon marijuana sales exceeded $241 million and produced over $80 million in state tax revenue. What does this mean for banks in one of the state's fastest growing industries? How are the business owners dealing with the challenges of a cash business? What is the future from a regulatory perspective? Hear viewpoints from a dispensary business owner, a cannabis attorney and Oregon's regulatory agency, the OLCC. Moderated by Chris Telfer, CPA, of Spectrum CPA Group LLP.
- Sponsored by Clifton Cannabis Law and Spectrum CPA Group LLP.
- A delicious catered buffet lunch is included.
- Don't miss the opportunity to be involved in this thought-provoking discussion!
- Seating is limited. Register today!

This panel series is presented for informational purposes only. The RMA and the East Cascades Chapter is not affiliated with the panelists, moderator or sponsors and holds no opinion on the subject matter.

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We hope you can make it!

Cheers,
The Risk Management Association - East Cascades Chapter

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Pot banking solution years away
Billion-dollar industry creates demand

By Joseph Ditzler
Published Apr 13, 2017 at 06:07PM / Updated Apr 13, 2017 at 07:55PM

Marijuana businesses in Oregon still lack for banking services, a situation unlikely to change for another five to 10 years, according to comments Thursday at a panel discussion in Bend.

Michael Hayes, one of three panelists and owner of Miracle Greens (http://www.miraclegreensdispensary.com/), a retail marijuana shop on SE Third Street, Bend, declinded, when asked by an audience member, to say whether he has a business bank account.

"The only reason I would, if I did, is the federal government requires me to pay my taxes online," he said during the hourlong discussion at the Bend Park & Recreation District Office on SW Columbia Street. The Risk Management Association (http://www.rmahq.org/who-we-are) East Cascades Chapter, sponsored the lunchtime discussion, which drew about 50 people. "I'm perfectly fine holding cash all day long," Hayes said. "I'm still honest, I still do all the accounting, it's just cash. It's just not in a bank's hands, where it could be earning interest. It's just collecting dust."
As many as 70 percent of the marijuana businesses in Oregon go without banking services, said Jennifer Clifton, a panelist and Bend attorney who provides legal services to cannabis businesses.

"This is a huge industry and it continues to grow," she said. "Projections are by 2020 that this industry is going to be worth about $20 billion (nationwide). So this issue of finding somewhere to bank the money isn’t going to go away."

Cannabis is legal in Oregon, but under federal law it is considered an illegal drug with no medical value and a high potential for abuse. Federally chartered banks are prohibited from handling money that comes from illegal drug transactions. The Obama administration created a set of rules for states where marijuana is legal that allowed banks to provide loans, accounts and other services to legal marijuana businesses. Banks must still adhere to requirements for reporting activity that could be related to drug trafficking or money laundering.

Many banks decline to provide services to cannabis business because of the risk of change in federal policy but also because of the cost in time and money required to complete those quarterly suspicious activity reports.

"I have a responsibility to know if there’s any illegal activity, if their taxes are being paid, if all that’s going on," said one banker in the audience. "I just don’t want to have that level of scrutiny (on the bank) going forward."

Bankers and real estate brokers in the audience asked if money that results from a legal drug transaction in Oregon is always considered tainted under federal law.

"Is rent money that comes from the cannabis industry, is that drug money?" asked Chris Tetell, the panel moderator, a certified public accountant and former state legislator. "And what I’m hearing is banks don’t quite know."

Otherwise, cannabis businesses could be considered a wise investment. Amanda Borup, panelist and policy analyst for the OLCC Recreational Marijuana Program, said the Oregon Liquor Control Commission, for example, requires anyone with an ownership interest of 10 percent or greater to submit to a background check. The state also requires on-site security at cannabis businesses, including 24-hour camera surveillance.

Hayes, who also owned several bars, said he’d much rather be in the marijuana business than the alcohol business.

"The risk is really not there," he said. "If you just look at us as a general cannabis industry and stereotype us, that’s kinda sad."

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