

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1452

By: Piatt of the House

and

Rabon of the Senate

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 2082, as amended by Section 1, Chapter 469, O.S.L. 2002, and Section 9, Chapter 469, O.S.L. 2002 (59 O.S. Supp. 2004, Sections 2082 and 2093), which relate to mortgage brokers; modifying definition; modifying certain continuing education requirements; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2001, Section 2082, as amended by Section 1, Chapter 469, O.S.L. 2002 (59 O.S. Supp. 2004, Section 2082), is amended to read as follows:

Section 2082. As used in the "Mortgage Broker Licensure Act":

1. "Administrator" means the Administrator of Consumer Credit;
2. "Affiliate" means an entity which directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the entity specified;
3. "Borrower" means any person who consults with or retains a mortgage broker or loan originator in an effort to obtain or seek advice or information on obtaining or applying to obtain a residential mortgage loan for himself, herself, or persons including himself or herself, regardless of whether the person actually obtains such a loan;
4. "Commission" means the Commission on Consumer Credit;

5. "Compensation" means anything of value or any benefit including points, commissions, bonuses, referral fees and loan origination fees;

6. "Employee" means an individual who has an employment relationship acknowledged by both the employee and the mortgage broker, and the individual is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws;

7. "Independent contractor" or "person who independently contracts" means any person that expressly or ~~impliedly~~ implicitly contracts to perform mortgage brokering services for another and that with respect to its manner or means of performing the services is not subject to the other's right of control, and that is not treated as an employee by the other for purposes of compliance with federal income tax laws;

8. "Investor" means a person who lends or invests money in mortgage loans;

9. "Loan processor" means an individual who works under the instruction of a mortgage loan originator or mortgage broker and performs only clerical functions such as gathering information, requesting information, word processing, sending correspondence or amending files;

10. "Mortgage loan originator" means a person employed, either directly or indirectly, or retained as an independent contractor by a person required to be licensed as a mortgage broker, and who is not exempt under Section 2083 of this title and who for compensation or in the expectation of compensation either directly or indirectly makes, negotiates or offers to make or negotiate a residential mortgage loan for or on behalf of a licensed mortgage broker;

11. "Mortgage broker" means any person who is not exempt under Section 2083 of this title and who for compensation or in the expectation of compensation either directly or indirectly makes,

negotiates or offers to make or negotiate a residential mortgage loan;

12. "Person" means an individual, corporation, company, limited liability company, partnership, association, or similar legal entity;

13. "Mortgage loan" means any loan secured by a mortgage, deed of trust or any lien interest on residential real estate located in this state created with the consent of the owner of the real estate; and

14. "Third-party provider" means any person other than a mortgage broker or lender who provides goods or services to the mortgage broker in connection with the preparation of the borrower's loan and includes, but is not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, or escrow companies.

SECTION 2. AMENDATORY Section 9, Chapter 469, O.S.L. 2002 (59 O.S. Supp. 2004, Section 2093), is amended to read as follows:

Section 2093. A. ~~Beginning July 1, 2006, as~~ As a condition of renewal or reactivation of the mortgage broker license, each licensee shall submit to the Administrator of Consumer Credit evidence of completion of a specified number of hours of continuing education courses approved by the Administrator, within the ~~thirty-six (36) months immediately~~ preceding the term for which the license is to be issued. The number of hours, or its equivalent, required for each licensed term shall be determined by the Mortgage Broker Advisory Committee and promulgated by rule. Each licensee shall be required to complete and include as part of said continuing education a certain number of required subjects as prescribed by rule.

B. The continuing education courses required by this section shall be satisfied by courses approved by the Administrator and offered by:

1. The Commission on Consumer Credit;
2. A technology center school;
3. A college or university;
4. A private school;
5. The Oklahoma Association of Mortgage Brokers, the National Association of Mortgage Brokers, or any affiliate thereof;
6. The Oklahoma Bar Association, American Bar Association, or any affiliate thereof; or
7. An education provider.

C. The Administrator shall maintain a list of courses which are approved by the Administrator.

D. The Administrator shall not issue an active renewal license or reactivate a license unless the continuing education requirement set forth in this section is satisfied within the prescribed time period.

E. The provisions of this section do not apply:

1. During the period a license is on inactive status; or
2. To a nonresident licensee licensed in this state if the licensee maintains a current license in another state and has satisfied the continuing education requirement for license renewal in that state.

SECTION 3. This act shall become effective July 1, 2005.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.