STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

4TH CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1503

By: Maddux, Cargill, Dewitt, Tibbs and Young of the House

and

Rabon of the Senate

4TH CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 2085, as last amended by Section 1, Chapter 330, O.S.L. 2003 (59 O.S. Supp. 2003, Section 2085), which relates to the Mortgage Broker Licensure Act; modifying duration of license; modifying fees for license; requiring fee for changes in status of licensee; 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 2085, as last amended by Section 1, Chapter 330, O.S.L. 2003 (59 O.S. Supp. 2003, Section 2085), is amended to read as follows:

Section 2085. A. 1. A person of good moral character who:

a. has at least three (3) years' experience in the residential mortgage loan industry as a mortgage loan originator or mortgage broker or real estate sales, title or lending industry during the five (5) years immediately preceding the time of application, or

b. has satisfactorily completed applicable educational requirements as established by rule of the Commission on Consumer Credit during the three (3) years immediately preceding the time of application, and

c. has passed a mortgage broker test pursuant to Section 2092 of this title not more than one (1) year preceding the time of application,

may make application to the Administrator of Consumer Credit for a mortgage broker license.

2. Application for a mortgage broker license shall be made upon forms prescribed by the Administrator and shall be accompanied by a nonrefundable application fee as set by rule of the Commission. The Commission or Administrator may require additional information on the experience, background, honesty, truthfulness, integrity and competency of the applicant and any responsible individual designated by the applicant. If the applicant is a person other than a natural person, the Administrator may require information as to the honesty, truthfulness, integrity and competency of any officer, director, shareholder or other interested party of the applicant.

3. Upon approval by the Administrator of the application and payment of the license fee provided for in the Mortgage Broker Licensure Act the Administrator shall issue to the applicant a license which shall authorize the applicant to act as a mortgage broker.

4. If a licensee is a person other than a natural person, the license issued entitles all officers, directors, members, partners, trustees and employees of the licensed corporation, partnership, association or trust to engage in the mortgage business if one officer, director, member, partner, employee or trustee of the person is designated in the license as the individual responsible for the person under this article. If a licensee is a natural person, the license entitles all employees of the licensee to engage in the mortgage business. If the natural person is not a resident of this state, an employee of the licensee shall be designated in the license as the individual responsible for the licensee under the

provisions of this article. For purposes of this paragraph, an employee does not include an independent contractor. A responsible individual shall be a resident of this state, shall be in active management of the activities of the licensee governed by the Mortgage Broker Licensure Act and shall meet the qualifications set forth in this subsection for a licensee.

5. A licensee shall notify the Administrator that its responsible individual will cease to be in active management of the activities of the licensee within ten (10) days of knowledge of that fact. The licensee has ninety (90) days after the notification is received by the Administrator within which to replace the responsible individual with a qualified replacement and to notify the Administrator of the replacement. If the license is not placed under active management of a qualified responsible individual and if notice is not given to the Administrator within the ninety-day period, the license shall expire.

6. A licensee shall not employ any person unless the licensee:

a. conducts a reasonable investigation of the background, honesty, truthfulness, integrity and competency of the employee before hiring the employee, and

b. keeps a record of the background investigation for a minimum of two (2) years after termination of the employee from employment with the licensee.

7. A license is not transferable nor may it be assigned and control of a licensee may not be acquired through a stock purchase or other device without the prior written consent of the Administrator. Written consent shall not be given if the Administrator finds that any of the grounds for denial, revocation or suspension of a license as set forth in Section 2088 of this title are applicable to the acquiring person. For purposes of this paragraph, "control" means the power to vote more than twenty

percent (20%) of outstanding voting shares of a licensed corporation, partnership, association or trust.

8. The licensee is liable for any damage caused by any employees while acting within the scope of employment as an employee of the licensee.

9. The examination and course of study requirements of this section may be waived by the Administrator for any person applying for a license who, within six (6) months immediately prior to the submission of the application to the Administrator, has been a licensee or a responsible person pursuant to the Mortgage Broker Licensure Act.

B. A license issued under this act shall be valid for a period of ~~three (3) years~~ one (1) year, unless otherwise revoked or suspended by the Administrator.

C. The Administrator, on determining that the applicant is qualified and upon payment of the fees by the applicant, shall issue a license to the applicant which is evidenced by a continuous certificate. The Administrator shall grant or deny a license within thirty (30) days after receipt of the completed application and appropriate fees. An applicant who has been denied a license may not reapply for the license for sixty (60) days from the date of the previous application.

D. A licensee shall pay the renewal fee on or before December 31. Licenses not renewed by December 31 will be suspended and the licensee shall not act as a mortgage broker until the license is renewed or a new license is issued pursuant to the Mortgage Broker Licensure Act. A person may renew a suspended license by paying the renewal fee plus Twenty-five Dollars ($25.00) for each day after December 31 that a license renewal fee is not received by the Administrator and making application for renewal in the manner prescribed by the Administrator. Licenses which are not renewed by February 1 of the subsequent year shall expire. A license shall not

be granted to the holder of an expired license except as provided in the Mortgage Broker Licensure Act for the issuance of an original license.

E. On or before December 31, a licensee may request inactive status for the following license year, and the license shall be placed on inactive status after payment to the Administrator of the inactive status renewal fee prescribed in this section and the surrender of the license to the Administrator. During inactive status, an inactive licensee shall not act as a mortgage broker. A licensee may not be on inactive status for more than two (2) consecutive years, nor for more than four (4) years in any ten-year period. The license is deemed expired for violation of any of the limitations of this subsection.

F. An inactive licensee may return to active status notwithstanding the requirement of this section by making a request in writing to the Administrator for reactivation and paying the prorated portion of the annual fee that would have been charged to the licensee to maintain normal active status. The licensee shall also provide the Administrator with proof that the licensee meets all of the other requirements for acting as a mortgage broker.

G. A licensee shall prominently display the mortgage broker license in the office of the mortgage broker.

H. Every licensed mortgage broker shall designate and maintain a principal place of business in this state for the transaction of business. The license shall specify the address of the principal place of business. If a licensee wishes to maintain one or more locations for the transaction of business in addition to a principal place of business, the licensee shall first obtain a branch office license from the Administrator and designate a person for each branch office to oversee the operations of that branch office. The licensee shall submit a fee as set forth in this section for each branch office license issued. If the Administrator determines that

the applicant is qualified, the Administrator shall issue a branch office license indicating the address of the branch office. The licensee shall conspicuously display the branch office license in the branch office. If the address of the principal place of business or of any branch office is changed, the licensee shall immediately notify the Administrator of the change and the Administrator shall endorse the change of address on the license for a fee as prescribed in this section.

I. 1. Initial and renewal license fees shall be ~~Three Hundred Dollars ($300.00)~~ One Hundred Dollars ($100.00) for each ~~three-year period~~ year.

2. Branch office fees shall be ~~One Hundred Fifty Dollars ($150.00)~~ Fifty Dollars ($50.00) for each ~~three-year period~~ year.

3. Inactive status fees shall be Fifty Dollars ($50.00) for each year.

4. A fee of Ten Dollars ($10.00) shall be charged for each change of address on a branch office license.

5. Individual and renewal license fees for a mortgage loan originator license shall be ~~One Hundred Dollars ($100.00)~~ Fifty Dollars ($50.00) for each ~~three-year period~~ year.

6. A fee of Ten Dollars ($10.00) shall be charged for each change of a sponsor listed on the license of a mortgage loan originator.

These fees shall be deposited in the Oklahoma Mortgage Brokers Recovery Fund.

J. A person may be denied a license for any of the causes set forth in subsection B of Section 2088 of this title.

K. A mortgage broker who held a current license as of July 1, 2003, which was issued under the Mortgage Broker Licensure Act shall be granted an initial license by the Administrator pursuant to the provisions of this section.

L. To be eligible to be a licensed mortgage loan originator, a person must make application to the Administrator of Consumer Credit. The person making application must meet the following criteria:

1. The person must be an individual who is at least eighteen (18) years of age;

2. The person must be a citizen of the United States of America or a lawfully admitted alien;

3. The person must designate in the application the name of the licensed mortgage broker sponsoring the mortgage loan originator;

4. The person must have at least eighteen (18) months of experience as a mortgage loan originator as evidenced by documentary proof of full-time employment as a mortgage loan originator with a licensed mortgage broker or a person exempt from licensure under Section 2083 of this title, or passes a mortgage loan originator test pursuant to Section 2092 of this title not more than one (1) year preceding the application; and

5. The person has not been convicted of a criminal offense the Administrator determines directly relates to the occupation of a mortgage loan originator.

SECTION 2. This act shall become effective July 1, 2004.

SECTION 3. 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.

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