

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1877

By: Rabon of the Senate

and

Piatt of the House

COMMITTEE SUBSTITUTE

An Act relating to professions and occupations; amending 59 O.S. 2001, Sections 2086, as last amended by Section 2, Chapter 330, O.S.L. 2003, 2090, as amended by Section 7, Chapter 469, O.S.L. 2002 and Section 9, Chapter 469, O.S.L. 2002, as amended by Section 2, Chapter 112, O.S.L. 2005 (59 O.S. Supp. 2005, Sections 2086, 2090 and 2093), which relate to the Mortgage Broker Licensure Act; modifying disclosure requirements for mortgage brokers; requiring mortgage brokers to provide certain disclosures to borrower; authorizing the Commission on Consumer Credit to adopt rules under certain circumstances; providing for certain continuing education requirements for mortgage loan originator licensees; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 2086, as last amended by Section 2, Chapter 330, O.S.L. 2003 (59 O.S. Supp. 2005, Section 2086), is amended to read as follows:

Section 2086. A. A mortgage broker shall have a written correspondent or loan brokerage agreement with a lender before any solicitation of, or contracting with, the public.

B. ~~1.~~ Upon receipt of a loan application and before the receipt of any monies from a borrower, a mortgage broker shall provide to ~~each~~ a borrower ~~a full written disclosure containing an itemization and explanation of all fees and costs that the borrower~~

~~is required to pay in connection with obtaining a residential mortgage loan, or specifying the fee or fees which inure to the benefit of the mortgage broker and other such disclosures as may be required by rule of the Commission on Consumer Credit~~ the disclosures required by the Real Estate Settlement Procedures Act, 12 U.S.C., Section 2601 et seq. (RESPA) and Regulation X, 24 C.F.R., Section 3500.1 et seq., as promulgated by HUD. Compliance with the disclosure requirements mandated by RESPA and HUD's Regulation X constitutes compliance with this act.

~~2. A good faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not determinable.~~

~~3. This subsection shall not be construed to require disclosure of the distribution or breakdown of loan fees, discount, or points between the mortgage broker and any lender or investor.~~

C. If a borrower is unable to obtain a loan for any reason and the borrower has paid for an appraisal, title report, or credit report, the mortgage broker shall give a copy of the appraisal, title report, or credit report to the borrower and transmit the originals to any other mortgage broker or lender to whom the borrower directs that the documents be transmitted. The mortgage broker must provide the copies or transmit the documents within five (5) business days after the borrower has made the request in writing.

D. 1. Except as otherwise permitted by this subsection, no mortgage broker or mortgage loan originator shall receive a fee, commission, or compensation of any kind in connection with the preparation, negotiation, and brokering of a residential mortgage loan unless a borrower actually obtains a loan from a lender on the terms and conditions agreed upon by the borrower and mortgage broker.

2. A mortgage broker may solicit or receive fees for third-party provider goods or services in advance. The mortgage broker

may not charge more for the goods and services than the actual costs of the goods or services charged by the third-party provider.

E. The Commission on Consumer Credit, in accordance with the Administrative Procedures Act shall have the authority to adopt rules not inconsistent with disclosures mandated by RESPA and HUD's Regulation X and which are within, but not beyond, the statutory scope and other provisions of this act to facilitate compliance with the disclosure and other requirements of this act.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 2090, as amended by Section 7, Chapter 469, O.S.L. 2002 (59 O.S. Supp. 2005, Section 2090), is amended to read as follows:

Section 2090. A. There is hereby created the "Mortgage Broker Advisory Committee" which shall advise the Commission on Consumer Credit on matters pertaining to the licensure, regulation, and discipline of mortgage brokers and mortgage loan originators required to be licensed under the provisions of the Mortgage Broker Licensure Act. Any recommendations made by the Mortgage Broker Advisory Committee to the Commission on Consumer Credit pertaining to the licensure, regulation and discipline of mortgage brokers and mortgage loan originators may be cause for promulgation of administrative rules as prescribed by subsection A of Section 308.2 of Title 75 of the Oklahoma Statutes, upon a vote of the Commission on Consumer Credit.

B. 1. Except as provided in paragraph 2 of this subsection, the Committee shall be comprised of four ~~(4)~~ licensed mortgage brokers and one person with experience in the title industry. Three members of the Committee shall be appointed by the Governor, two licensed mortgage brokers and one person with experience in the title industry. The remaining two members of the Committee shall be appointed by the Oklahoma Association of Mortgage Brokers. Each member shall serve a term of three (3) years and until a successor

is appointed and qualified. Members may be removed for misconduct, incompetency, or neglect of duty.

2. Members initially appointed to the Committee shall have been active in the mortgage broker business in this state for at least two (2) years prior to appointment and shall complete licensure requirements within one (1) year of appointment. Initial members shall serve staggered terms as follows: two members shall be appointed for a term of one (1) year each, two members shall be appointed for a term of two (2) years each, and one member shall be appointed for a term of three (3) years. Thereafter, these members may be appointed for three-year terms of office. All terms of office shall expire on October 31.

C. The Committee shall elect a chair from among its membership. Meetings shall be held at least quarterly. Special meetings may be called by request of the Commission. A majority of the Committee shall constitute a quorum for the transaction of business. Each member shall receive reimbursement for travel expenses in accordance with the provisions of the State Travel Reimbursement Act. The Committee shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

SECTION 3. AMENDATORY Section 9, Chapter 469, O.S.L. 2002, as amended by Section 2, Chapter 112, O.S.L. 2005 (59 O.S. Supp. 2005, Section 2093), is amended to read as follows:

Section 2093. A. As a condition of renewal or reactivation of the mortgage broker license or the mortgage loan originator 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 preceding 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 4. This act shall become effective November 1, 2006.

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