

CS for EHB 1452

1 THE STATE SENATE
2 Thursday, April 7, 2005

3 Committee Substitute for
4 ENGROSSED
5 House Bill No. 1452

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1452 - By: PIATT
7 of the House and RABON of the Senate.

8 An Act relating to professions and occupations; amending 59
9 O.S. 2001, Section 2082, as amended by Section 1, Chapter
10 469, O.S.L. 2002, and Section 9, Chapter 469, O.S.L. 2002
11 (59 O.S. Supp. 2004, Sections 2082 and 2093), which relate
12 to mortgage brokers; modifying definition; modifying certain
13 continuing education requirements; providing an effective
14 date; and declaring an emergency.

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

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

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

20 1. "Administrator" means the Administrator of Consumer Credit;

21 2. "Affiliate" means an entity which directly or indirectly,
22 through one or more intermediaries, controls, is controlled by or is
23 under common control with the entity specified;

24 3. "Borrower" means any person who consults with or retains a
25 mortgage broker or loan originator in an effort to obtain or seek
26 advice or information on obtaining or applying to obtain a
27 residential mortgage loan for himself, herself, or persons including

1 himself or herself, regardless of whether the person actually
2 obtains such a loan;

3 4. "Commission" means the Commission on Consumer Credit;

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

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

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

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

20 9. "Loan processor" means an individual who works under the
21 instruction of a mortgage loan originator or mortgage broker and
22 performs only clerical functions such as gathering information,

1 requesting information, word processing, sending correspondence or
2 amending files;

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

10 11. "Mortgage broker" means any person who is not exempt under
11 Section 2083 of this title and who for compensation or in the
12 expectation of compensation either directly or indirectly makes,
13 negotiates or offers to make or negotiate a residential mortgage
14 loan;

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

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

22 14. "Third-party provider" means any person other than a
23 mortgage broker or lender who provides goods or services to the

1 mortgage broker in connection with the preparation of the borrower's
2 loan and includes, but is not limited to, credit reporting agencies,
3 title companies, appraisers, structural and pest inspectors, or
4 escrow companies.

5 SECTION 2. AMENDATORY Section 9, Chapter 469, O.S.L.
6 2002 (59 O.S. Supp. 2004, Section 2093), is amended to read as
7 follows:

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

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

23 1. The Commission on Consumer Credit;

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

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

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

15 E. The provisions of this section do not apply:

16 1. During the period a license is on inactive status; or

17 2. To a nonresident licensee licensed in this state if the
18 licensee maintains a current license in another state and has
19 satisfied the continuing education requirement for license renewal
20 in that state.

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

22 SECTION 4. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
3 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND LABOR, dated 4-4-05 -
4 DO PASS, As Amended.