

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1452

By: Piatt

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 2083, as amended by Section 2, Chapter 469, O.S.L. 2002 and Section 9, Chapter 469, O.S.L. 2002 (59 O.S. Supp. 2004, Sections 2083 and 2093), which relate to mortgage brokers; modifying certain licensing exemptions; 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 2083, as amended by Section 2, Chapter 469, O.S.L. 2002 (59 O.S. Supp. 2004, Section 2083), is amended to read as follows:

Section 2083. The following are exempt from all provisions of the Mortgage Broker Licensure Act:

1. Any person authorized to do business under the laws of this state or the United States regulating commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, supervised lenders as defined in paragraph 2 of Section 3-501 of Title 14A of the Oklahoma Statutes or affiliates or subsidiaries thereof, or real estate investment trusts as defined in 26 U.S.C., Section 856 and the affiliates, subsidiaries, and service corporations thereof;

2. Any attorney licensed to practice law in this state who is not principally engaged in the business of negotiating residential

mortgage loans when such attorney renders services in the course of his or her practice as an attorney;

3. Any person making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment without intending to resell the residential mortgage loans;

4. Any mortgage broker ~~solely~~ primarily engaged in transactions approved and subject to auditing by the Federal National Mortgage Association, the Government National Mortgage Association, the Department of Housing and Urban Development (HUD), the Federal Home Loan Mortgage Corporation, or the Department of Veterans Affairs;

5. The United States of America, the State of Oklahoma, any other state and any political subdivision of this state, or their instrumentalities;

6. Any real estate broker or sales associate licensed by this state who assists the borrower in obtaining financing for a real estate transaction involving a bona fide sale of real estate in the performance of his or her duties as a real estate broker or associate and who receives only the customary real estate broker's or associate's commission in connection with the transaction;

7. Any real estate broker or sales associate licensed by this state who provides only information regarding rates, terms, and lenders, who receives a fee for providing such information, who conforms to all rules of the Oklahoma Real Estate Commission with respect to the providing of such service, and who discloses on a form approved by the Administrator of Consumer Credit that to obtain a loan the borrower must deal directly with a mortgage broker or lender; however, such real estate broker or sales associate shall not be exempt if he or she does any of the following:

- a. holds himself or herself out as able to obtain a mortgage loan from a lender for another,
- b. accepts a mortgage loan application, or submits a mortgage loan application to a lender,

- c. accepts any deposit for third-party services or any compensation from a borrower, whether such compensation is paid before, upon, or after the closing of the mortgage loan, or
- d. negotiates rates or terms with a lender on behalf of a borrower;

8. Any insurance company or its affiliates, subsidiaries, and service corporations authorized to do business under the laws of this state and any agent of any such insurance company, affiliate, subsidiary, or service corporation:

- a. if the agent holds a current license as an insurance agent from the Insurance Department,
- b. if the agent performs services which would otherwise require a license under the Mortgage Broker Licensure Act only for an insurance company, affiliate, subsidiary, or service corporation for which the agent has been appointed and the appointment has been approved by the Insurance Commissioner, and
- c. if the insurance company, affiliate, subsidiary, or service corporation agrees to accept liability for the acts of its agents; and

9. Any employee of a person licensed or exempt from licensing under this act when acting within the scope of their employment.

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 license, each licensee shall submit to the Administrator 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;
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.

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