

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1927

By: Crain of the Senate

and

6 Winchester of the House

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;
11 amending 59 O.S. 2001, Section 2085, as last amended
12 by Section 1, Chapter 372, O.S.L. 2004 (59 O.S. Supp.
13 2007, Section 2085), which relates to the Mortgage
14 Broker Licensure Act; adding certain education
15 requirement for certain licensees; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 59 O.S. 2001, Section 2085, as
19 last amended by Section 1, Chapter 372, O.S.L. 2004 (59 O.S. Supp.
20 2007, Section 2085), is amended to read as follows:

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

- 22 a. has at least three (3) years' experience in the
23 residential mortgage loan industry as a mortgage loan
24 originator or mortgage broker or real estate sales,

- 1 title or lending industry during the five (5) years
2 immediately preceding the time of application, or
3 b. has satisfactorily completed twenty (20) hours of
4 applicable educational requirements to the
5 satisfaction of the standards as established by the
6 National Association of Mortgage Brokers and as
7 established by rule of the Commission on Consumer
8 Credit during the three (3) years immediately
9 preceding the time of application, and
10 c. has passed a mortgage broker test pursuant to Section
11 2092 of this title not more than one (1) year
12 preceding the time of application,

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

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

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

8 4. If a licensee is a person other than a natural person, the
9 license issued entitles all officers, directors, members, partners,
10 trustees and employees of the licensed corporation, partnership,
11 association or trust to engage in the mortgage business if one
12 officer, director, member, partner, employee or trustee of the
13 person is designated in the license as the individual responsible
14 for the person under this article. If a licensee is a natural
15 person, the license entitles all employees of the licensee to engage
16 in the mortgage business. If the natural person is not a resident
17 of this state, an employee of the licensee shall be designated in
18 the license as the individual responsible for the licensee under the
19 provisions of this article. For purposes of this paragraph, an
20 employee does not include an independent contractor. A responsible
21 individual shall be a resident of this state, shall be in active
22 management of the activities of the licensee governed by the
23 Mortgage Broker Licensure Act and shall meet the qualifications set
24 forth in this subsection for a licensee.

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

11 6. A licensee shall not employ any person unless the licensee:
12 a. conducts a reasonable investigation of the background,
13 honesty, truthfulness, integrity and competency of the
14 employee before hiring the employee, and
15 b. keeps a record of the background investigation for a
16 minimum of two (2) years after termination of the
17 employee from employment with the licensee.

18 7. A license is not transferable nor may it be assigned and
19 control of a licensee may not be acquired through a stock purchase
20 or other device without the prior written consent of the
21 Administrator. Written consent shall not be given if the
22 Administrator finds that any of the grounds for denial, revocation
23 or suspension of a license as set forth in Section 2088 of this
24 title are applicable to the acquiring person. For purposes of this

1 paragraph, "control" means the power to vote more than twenty
2 percent (20%) of outstanding voting shares of a licensed
3 corporation, partnership, association or trust.

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

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

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

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

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1 D. A licensee shall pay the renewal fee on or before December
2 31. Licenses not renewed by December 31 will be suspended and the
3 licensee shall not act as a mortgage broker until the license is
4 renewed or a new license is issued pursuant to the Mortgage Broker
5 Licensure Act. A person may renew a suspended license by paying the
6 renewal fee plus Twenty-five Dollars (\$25.00) for each day after
7 December 31 that a license renewal fee is not received by the
8 Administrator and making application for renewal in the manner
9 prescribed by the Administrator. Licenses which are not renewed by
10 February 1 of the subsequent year shall expire. A license shall not
11 be granted to the holder of an expired license except as provided in
12 the Mortgage Broker Licensure Act for the issuance of an original
13 license.

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

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

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

10 H. Every licensed mortgage broker shall designate and maintain
11 a principal place of business in this state for the transaction of
12 business. The license shall specify the address of the principal
13 place of business. If a licensee wishes to maintain one or more
14 locations for the transaction of business in addition to a principal
15 place of business, the licensee shall first obtain a branch office
16 license from the Administrator and designate a person for each
17 branch office to oversee the operations of that branch office. The
18 licensee shall submit a fee as set forth in this section for each
19 branch office license issued. If the Administrator determines that
20 the applicant is qualified, the Administrator shall issue a branch
21 office license indicating the address of the branch office. The
22 licensee shall conspicuously display the branch office license in
23 the branch office. If the address of the principal place of
24 business or of any branch office is changed, the licensee shall

1 immediately notify the Administrator of the change and the
2 Administrator shall endorse the change of address on the license for
3 a fee as prescribed in this section.

4 I. 1. Initial and renewal license fees shall be One Hundred
5 Dollars (\$100.00) for each year.

6 2. Branch office fees shall be Fifty Dollars (\$50.00) for each
7 year.

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

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

12 5. Individual and renewal license fees for a mortgage loan
13 originator license shall be Fifty Dollars (\$50.00) for each year.

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

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

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

21 K. A mortgage broker who held a current license as of July 1,
22 2003, which was issued under the Mortgage Broker Licensure Act shall
23 be granted an initial license by the Administrator pursuant to the
24 provisions of this section.

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

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

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

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

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

18 5. The person has satisfactorily completed sixteen (16) hours
19 of applicable educational requirements to the satisfaction of the
20 standards as established by the National Association of Mortgage
21 Brokers and as established by rule of the Commission on Consumer
22 Credit during the three (3) years immediately preceding the time of
23 application; and

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

4 SECTION 2. This act shall become effective November 1, 2008.

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