

SB 1927

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THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 1927
As Amended

SENATE BILL NO. 1927 - By: CRAIN of the Senate and WINCHESTER of the House.

[professions and occupations - Mortgage Broker Licensure Act - effective date]

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 372, O.S.L. 2004 (59 O.S. Supp. 2007, 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 twenty (20) hours of applicable educational requirements to the satisfaction of the standards as established by the National Association of Mortgage Brokers and as established by rule of the Commission on Consumer

1 Credit during the three (3) years immediately
2 preceding the time of application, and
3 c. has passed a mortgage broker test pursuant to Section
4 2092 of this title not more than one (1) year
5 preceding the time of application,
6 may make application to the Administrator of Consumer Credit for a
7 mortgage broker license.

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

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

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

18 5. A licensee shall notify the Administrator that its
19 responsible individual will cease to be in active management of the
20 activities of the licensee within ten (10) days of knowledge of that
21 fact. The licensee has ninety (90) days after the notification is
22 received by the Administrator within which to replace the
23 responsible individual with a qualified replacement and to notify

1 the Administrator of the replacement. If the license is not placed
2 under active management of a qualified responsible individual and if
3 notice is not given to the Administrator within the ninety-day
4 period, the license shall expire.

- 5 6. A licensee shall not employ any person unless the licensee:
- 6 a. conducts a reasonable investigation of the background,
7 honesty, truthfulness, integrity and competency of the
8 employee before hiring the employee, and
 - 9 b. keeps a record of the background investigation for a
10 minimum of two (2) years after termination of the
11 employee from employment with the licensee.

12 7. A license is not transferable nor may it be assigned and
13 control of a licensee may not be acquired through a stock purchase
14 or other device without the prior written consent of the
15 Administrator. Written consent shall not be given if the
16 Administrator finds that any of the grounds for denial, revocation
17 or suspension of a license as set forth in Section 2088 of this
18 title are applicable to the acquiring person. For purposes of this
19 paragraph, "control" means the power to vote more than twenty
20 percent (20%) of outstanding voting shares of a licensed
21 corporation, partnership, association or trust.

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

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

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

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

21 D. A licensee shall pay the renewal fee on or before December
22 31. Licenses not renewed by December 31 will be suspended and the
23 licensee shall not act as a mortgage broker until the license is

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

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

21 F. An inactive licensee may return to active status
22 notwithstanding the requirement of this section by making a request
23 in writing to the Administrator for reactivation and paying the

1 prorated portion of the annual fee that would have been charged to
2 the licensee to maintain normal active status. The licensee shall
3 also provide the Administrator with proof that the licensee meets
4 all of the other requirements for acting as a mortgage broker.

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

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

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

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

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

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

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

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

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

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

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & LABOR, dated 2-18-08 -
6 DO PASS, As Amended and Coauthored.