

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 1180

By: Newberry

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5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 amending 59 O.S. 2001, Section 2086, as last amended  
9 by Section 1, Chapter 172, O.S.L. 2006 (59 O.S. Supp.  
10 2008, Section 2086), which relates to the Mortgage  
11 Broker Licensure Act; prohibiting a lender from  
12 charging back certain fees to a mortgage broker,  
13 banker or mortgage loan originator under certain  
14 circumstances; authorizing a mortgage broker to  
15 solicit and receive certain fee for certain purpose;  
16 requiring such fee to be disclosed and consistent;  
17 and providing an effective date.

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

19 SECTION 1. AMENDATORY 59 O.S. 2001, Section 2086, as  
20 last amended by Section 1, Chapter 172, O.S.L. 2006 (59 O.S. Supp.  
21 2008, Section 2086), is amended to read as follows:

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

B. Upon receipt of a loan application and before the receipt of  
any monies from a borrower, a mortgage broker shall provide to a  
borrower the disclosures required by the Real Estate Settlement

1 Procedures Act, 12 U.S.C., Section 2601 et seq. (RESPA) and  
2 Regulation X, 24 C.F.R., Section 3500.1 et seq., as promulgated by  
3 HUD. Compliance with the disclosure requirements mandated by RESPA  
4 and HUD's Regulation X constitutes compliance with ~~this act~~ the  
5 Mortgage Broker Licensure Act.

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

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

22 2. If a mortgage broker, banker or mortgage loan originator has  
23 assisted a borrower in obtaining a residential mortgage loan and the  
24 borrower decides to refinance or sell the property in question, the

1 lender shall be prohibited from charging back any fee income paid by  
2 the lender to the mortgage broker, banker or loan originator unless  
3 the mortgage broker, banker or loan originator is involved in such  
4 refinance.

5       3. A mortgage broker may solicit or receive fees for third-  
6 party provider goods or services in advance and may solicit and  
7 receive a reasonable administrative fee to recoup administrative  
8 costs, provided such a fee shall be disclosed in advance and shall  
9 be consistent across all borrowers. The mortgage broker may not  
10 charge more for the goods and services than the actual costs of the  
11 goods or services charged by the third-party provider.

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

19       SECTION 2. This act shall become effective November 1, 2009.

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21       52-1-1111           LKS           3/6/2009 2:09:35 AM

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