

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1913

By: Newberry

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5
6 AS INTRODUCED

7 An Act relating to the professions and occupations;
8 amending Section 6, Chapter 190, O.S.L. 2009 (59 O.S.
9 Supp. 2009, Section 2095.3), which relates to
10 exemptions under the Oklahoma Secure and Fair
11 Enforcement for Mortgage Licensing Act; exempting
12 certain entities; amending Section 10, Chapter 190,
13 O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.7),
14 which relates to mortgage loan originators; requiring
15 loan originators to be sponsored by licensed mortgage
16 banker; amending Section 19, Chapter 190, O.S.L. 2009
17 (59 O.S. Supp. 2009, Section 2095.16), which relates
18 to trust accounts; removing requirement for certain
19 account to be within this state; repealing Section 9,
20 Chapter 469, O.S.L. 2002, as last amended by Section
21 13, Chapter 2, O.S.L. 2009 (59 O.S. Supp. 2009,
22 Section 2093), which relates to continuing education
23 for mortgage loan originators and brokers; providing
24 an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 6, Chapter 190, O.S.L.
2009 (59 O.S. Supp. 2009, Section 2095.3), is amended to read as
follows:

Section 2095.3 The following are exempt from all provisions of
the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act:

1 1. Registered mortgage loan originators, when acting for an
2 entity described in divisions (1), (2) and (3) of subparagraph a of
3 paragraph 17 of Section ~~5~~ 2095.2 of this ~~act~~ title;

4 2. An individual who offers or negotiates or modifies terms of
5 a residential mortgage loan with or on behalf of an immediate family
6 member of the individual;

7 3. An individual who offers or negotiates or modifies terms of
8 a residential mortgage loan secured by a dwelling that served as the
9 individual's residence; ~~or~~

10 4. A licensed attorney who negotiates or modifies the terms of
11 a residential mortgage loan on behalf of a client as an ancillary
12 matter to the attorney's representation of the client, unless the
13 attorney is compensated by a lender, a mortgage broker or other
14 mortgage loan originator or by any agent of such lender, mortgage
15 broker, or other mortgage loan originator; or

16 5. Entities described in divisions (1), (2), and (3) of
17 subparagraph 17 of Section 2095.2 of this title.

18 SECTION 2. AMENDATORY Section 10, Chapter 190, O.S.L.
19 2009 (59 O.S. Supp. 2009, Section 2095.7), is amended to read as
20 follows:

21 Section 2095.7 The Administrator of Consumer Credit shall not
22 issue a mortgage loan originator license unless the Administrator
23 makes at a minimum the following findings:
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1 1. The applicant has never had a mortgage loan originator
2 license revoked in any governmental jurisdiction, except that a
3 subsequent formal vacation of such revocation shall not be deemed a
4 revocation;

5 2. The applicant has not been convicted of, or pled guilty or
6 nolo contendere to a felony in a domestic, foreign or military
7 court:

- 8 a. during the seven-year period preceding the date of the
9 application for licensing and registration, or
- 10 b. at any time preceding such date of application, if
11 such felony involved an act of fraud, dishonesty, a
12 breach of trust or money laundering.

13 Provided, that any pardon of a conviction shall not be a
14 conviction for purposes of this paragraph;

15 3. The applicant has demonstrated financial responsibility,
16 character and general fitness such as to command the confidence of
17 the community and to warrant a determination that the mortgage loan
18 originator will operate honestly, fairly and efficiently within the
19 purposes of this act. For purposes of this paragraph, an individual
20 has shown that he or she is not financially responsible when he or
21 she has shown a disregard in the management of his or her own
22 financial condition. A determination that an individual has not
23 shown financial responsibility may include, but not be limited to:

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- a. current outstanding judgments, except judgments solely as a result of medical expenses,
- b. current outstanding tax liens or other government liens and filings,
- c. foreclosures within the past three (3) years, or
- d. pattern of seriously delinquent accounts within the past three (3) years;

4. The applicant has completed the prelicensing education requirement described in Section ~~11~~ 2095.8 of this ~~act~~ title;

5. The applicant has passed a written test that meets the test requirement described in Section ~~12~~ 2095.9 of this ~~act~~ title; and

6. The applicant has paid into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund as required by paragraph 6 of subsection M of Section ~~9~~ 2095.6 of this ~~act~~ title; and

7. The applicant is sponsored by a licensed mortgage banker.

SECTION 3. AMENDATORY Section 19, Chapter 190, O.S.L. 2009 (59 O.S. Supp. 2009, Section 2095.16), is amended to read as follows:

Section 2095.16 A. A mortgage broker or mortgage loan originator shall deposit, prior to the end of the next business day, all monies received from borrowers for third-party provider services in a trust account of a federally insured financial institution ~~located in this state~~. The trust account shall be designated and maintained for the benefit of borrowers. Monies maintained in the

1 trust account shall be exempt from execution, attachment, or
2 garnishment. A mortgage broker or mortgage loan originator shall
3 not in any way encumber the corpus of the trust account or commingle
4 any other operating funds with trust account funds.

5 B. Withdrawals from the trust account shall be only for the
6 payment of bona fide services rendered by a third-party provider or
7 for refunds to borrowers. Any interest earned on the trust account
8 shall be refunded or credited to the borrowers at closing. Any
9 monies remaining in the trust account after payment to third-party
10 providers shall be refunded to the borrower.

11 C. The mortgage broker or mortgage loan originator shall pay
12 third-party providers no later than thirty (30) days after
13 completion of the third-party service.

14 D. A mortgage broker or mortgage loan originator shall maintain
15 accurate, current, and readily available records of the trust
16 account until at least three (3) years have elapsed following the
17 effective period to which the records relate. The records shall be
18 subject to audit by the Administrator of Consumer Credit pursuant to
19 an examination or investigation.

20 E. The provisions of this section shall not apply to a
21 depository institution as defined in Section 5 2095.2 of this act
22 title, its subsidiaries and affiliates or any employee or exclusive
23 agent thereof.

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1 SECTION 4. REPEALER Section 9, Chapter 469, O.S.L.
2 2002, as last amended by Section 13, Chapter 2, O.S.L. 2009 (59 O.S.
3 Supp. 2009, Section 2093), is hereby repealed.

4 SECTION 5. This act shall become effective July 1, 2010.

5 SECTION 6. It being immediately necessary for the preservation
6 of the public peace, health and safety, an emergency is hereby
7 declared to exist, by reason whereof this act shall take effect and
8 be in full force from and after its passage and approval.

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