

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 377

By: Newberry of the Senate

and

6 McCall of the House

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to professions and occupations;
11 amending 59 O.S. 2011, Sections 2095.1, 2095.3,
12 2095.6, as amended by Section 4, Chapter 98, O.S.L.
13 2013, 2095.8 and 2095.21, as amended by Section 12,
14 Chapter 98, O.S.L. 2013 (59 O.S. Supp. 2014, Sections
15 2095.6 and 2095.21), which relate to the Oklahoma
16 Secure and Fair Enforcement for Mortgage Licensing
17 Act; adding mortgage lenders and loan servicing
18 activity; updating reference; correcting citation;
19 deleting provisions for inactive status of license;
20 including additional topic for prelicensing education
21 requirement; removing classroom continuing education
22 requirement for loan originator; and providing an
23 effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 2095.1, is
amended to read as follows:

Section 2095.1. The activities of mortgage brokers, mortgage
lenders, and mortgage loan originators and the origination ~~of~~,
offering, servicing or modification of financing for residential

1 real property have a direct, valuable, and immediate impact upon
2 Oklahoma's consumers, the Oklahoma economy, the neighborhoods and
3 communities of Oklahoma, and the housing and real estate industry.
4 Therefore, the Legislature finds that accessibility to mortgage
5 credit is vital to the state's citizens. The Legislature also finds
6 that it is essential for the protection of the citizens of Oklahoma
7 and the stability of the Oklahoma economy that reasonable standards
8 for licensing and regulation of the business practices of mortgage
9 brokers, mortgage lenders, and mortgage loan originators be imposed.
10 The Legislature further finds that the obligations of mortgage
11 brokers, mortgage lenders, and mortgage loan originators to
12 consumers in connection with originating or making, ~~or~~ modifying or
13 servicing residential mortgage loans are such as to warrant the
14 regulation of the mortgage lending and servicing process. The
15 purpose of ~~this act~~ the Oklahoma Secure and Fair Enforcement for
16 Mortgage Licensing Act is to protect consumers seeking mortgage
17 loans and to ensure that the mortgage lending and servicing industry
18 is operating without unfair, deceptive, and fraudulent practices on
19 the part of mortgage brokers, mortgage lenders, and mortgage loan
20 originators. Therefore, the Legislature establishes within ~~this act~~
21 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act:

22 1. An effective system of supervision and enforcement of the
23 mortgage lending and servicing industry, including:
24

- 1 a. the authority to issue licenses to conduct business
2 under this act, including the authority to write rules
3 or regulations or adopt procedures necessary to the
4 licensing of entities or individuals covered ~~under~~
5 ~~this act~~ pursuant to the Oklahoma Secure and Fair
6 Enforcement for Mortgage Licensing Act,
- 7 b. the authority to censure, deny, place on probation,
8 suspend or revoke licenses issued ~~under this act~~
9 pursuant to the Oklahoma Secure and Fair Enforcement
10 for Mortgage Licensing Act, and
- 11 c. the authority to examine, investigate, and conduct
12 enforcement actions as necessary to carry out the
13 intended purposes of ~~this act~~ the Oklahoma Secure and
14 Fair Enforcement for Mortgage Licensing Act, including
15 the authority to subpoena witnesses and documents,
16 enter orders, including cease and desist orders, order
17 restitution and monetary penalties, and order the
18 removal and ban of individuals from office or
19 employment; and

20 2. Broad administrative authority for the Administrator of
21 Consumer Credit to administer, interpret, and enforce ~~this act~~ the
22 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act and
23 promulgate rules, subject to approval of the Commission on Consumer
24 Credit, in order to carry out the intentions of the Legislature.

1 SECTION 2. AMENDATORY 59 O.S. 2011, Section 2095.3, is
2 amended to read as follows:

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

5 1. Registered mortgage loan originators, when acting for an
6 entity described in divisions (1), (2) and (3) of subparagraph a of
7 paragraph ~~17~~ 18 of Section 2095.2 of this title;

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

11 3. An individual who offers or negotiates or modifies terms of
12 a residential mortgage loan secured by a dwelling that served as the
13 individual's residence;

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

20 5. Entities described in divisions (1), (2) and (3) of
21 subparagraph a of paragraph ~~17~~ 18 of Section 2095.2 of this title.

22 SECTION 3. AMENDATORY 59 O.S. 2011, Section 2095.6, as
23 amended by Section 4, Chapter 98, O.S.L. 2013 (59 O.S. Supp. 2014,
24 Section 2095.6), is amended to read as follows:

1 Section 2095.6 A. Applicants for a license shall apply on a
2 form as prescribed by the Administrator of Consumer Credit.

3 B. In order to fulfill the purposes of the Oklahoma Secure and
4 Fair Enforcement for Mortgage Licensing Act, the Administrator is
5 authorized to establish relationships or contracts with the
6 Nationwide Mortgage Licensing System and Registry or other entities
7 designated by the Nationwide Mortgage Licensing System and Registry
8 to collect and maintain records and process transaction fees or
9 other fees related to licensees or other entities or individuals
10 subject to the Oklahoma Secure and Fair Enforcement for Mortgage
11 Licensing Act.

12 C. In connection with an application for licensing as a
13 mortgage loan originator, the applicant shall, at a minimum, furnish
14 to the Nationwide Mortgage Licensing System and Registry information
15 concerning the applicant's identity including:

16 1. Fingerprints for submission to the Federal Bureau of
17 Investigation and any governmental agency or entity authorized to
18 receive such information for a state, national and international
19 criminal history background check; and

20 2. Personal history and experience in a form prescribed by the
21 Nationwide Mortgage Licensing System and Registry and the
22 Administrator to obtain:
23
24

1 a. an independent credit report obtained from a consumer
2 reporting agency defined in 15 U.S.C., Section
3 1681a(p), and

4 b. information related to any administrative, civil or
5 criminal findings by any governmental jurisdiction.

6 D. In connection with an application for licensing as a
7 mortgage broker or mortgage lender, the applicant shall, at a
8 minimum, furnish to the Nationwide Mortgage Licensing System and
9 Registry information concerning each owner, officer, director or
10 partner, as applicable including:

11 1. Fingerprints for submission to the Federal Bureau of
12 Investigation and any governmental agency or entity authorized to
13 receive such information for a state, national and international
14 criminal history background check; and

15 2. Personal history and experience in a form prescribed by the
16 Nationwide Mortgage Licensing System and Registry and the
17 Administrator to obtain:

18 a. an independent credit report obtained from a consumer
19 reporting agency described in 15 U.S.C., Section
20 1681a(p), and

21 b. information related to any administrative, civil or
22 criminal findings by any governmental jurisdiction.

23 E. For purposes of this section and in order to reduce points
24 of contact which the Federal Bureau of Investigation may have to

1 maintain for purposes of paragraph 1 and subparagraph b of paragraph
2 2 of subsection D of this section, the Administrator may use the
3 Nationwide Mortgage Licensing System and Registry as a channeling
4 agent for requesting information from and distributing information
5 to the Department of Justice or any governmental agency.

6 F. For the purposes of this section and in order to reduce the
7 points of contact which the Administrator may have to maintain for
8 purposes of subparagraphs a and b of paragraph 2 of subsection D of
9 this section, the Administrator may use the Nationwide Mortgage
10 Licensing System and Registry as a channeling agent for requesting
11 and distributing information to and from any source so directed by
12 the Administrator.

13 G. A license issued under the Oklahoma Secure and Fair
14 Enforcement for Mortgage Licensing Act shall be valid for a period
15 of one (1) year, unless otherwise revoked or suspended by the
16 Administrator as provided in the Oklahoma Secure and Fair
17 Enforcement for Mortgage Licensing Act.

18 H. The Administrator, on determining that the applicant is
19 qualified and upon payment of the fees by the applicant, shall issue
20 a license to the applicant. An applicant who has been denied a
21 license may not reapply for the license for sixty (60) days from the
22 date of the previous application. A new license issued on or after
23 November 1 shall be effective through December 31 of the following
24 calendar year.

1 I. A licensee shall pay the renewal fee on or before December
2 1. If the license is not renewed by December 1, the licensee shall
3 pay a late renewal fee as prescribed by rule of the Commission on
4 Consumer Credit. Licenses not renewed by December 31 shall expire
5 and the licensee shall not act as a mortgage broker, mortgage lender
6 or mortgage loan originator until a new license is issued pursuant
7 to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing
8 Act. A license shall not be granted to the holder of an expired
9 license except as provided in the Oklahoma Secure and Fair
10 Enforcement for Mortgage Licensing Act for the issuance of an
11 original license.

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

23 ~~K. An inactive licensee may return to active status~~
24 ~~notwithstanding the requirements of this section by making a request~~

1 ~~in writing to the Administrator for reactivation and paying the~~
2 ~~prorated portion of the annual fee that would have been charged to~~
3 ~~the licensee to maintain normal active status. The licensee shall~~
4 ~~also provide the Administrator with proof that the licensee meets~~
5 ~~all of the other requirements for acting as a mortgage broker,~~
6 ~~mortgage lender or mortgage loan originator, including any~~
7 ~~applicable education and testing requirements.~~

8 ~~L.~~ A licensee shall prominently display the mortgage broker,
9 mortgage lender or mortgage loan originator license in the office of
10 the mortgage broker, mortgage lender or mortgage loan originator and
11 any branch office of the mortgage broker or mortgage lender.

12 ~~M.~~ K. 1. Initial and renewal license fees shall be as
13 prescribed by rule of the Commission on Consumer Credit.

14 2. A late renewal fee shall be as prescribed by rule of the
15 Commission on Consumer Credit.

16 3. Branch office fees shall be as prescribed by rule of the
17 Commission on Consumer Credit for each year.

18 4. ~~Inactive status fees shall be as prescribed by rule of the~~
19 ~~Commission on Consumer Credit for each year.~~

20 ~~5.~~ A fee as prescribed by rule of the Commission on Consumer
21 Credit shall be charged for each license change, duplicate license
22 or returned check.

23 ~~6.~~ 5. A fee as prescribed by rule of the Commission on Consumer
24 Credit shall be paid by applicants and licensees into the Oklahoma

1 Mortgage Broker and Mortgage Loan Originator Recovery Fund as
2 provided for in Section 2095.20 of this title for each initial
3 application and each renewal application.

4 ~~7.~~ 6. An examination fee shall be as prescribed by rule of the
5 Commission on Consumer Credit.

6 ~~8.~~ 7. An application fee shall be as prescribed by rule of the
7 Commission on Consumer Credit.

8 SECTION 4. AMENDATORY 59 O.S. 2011, Section 2095.8, is
9 amended to read as follows:

10 Section 2095.8 A. In order to meet the prelicensing education
11 requirement referred to in Section 10 of this act, an individual
12 shall complete at least twenty (20) hours of education approved in
13 accordance with subsection B of this section, which shall include at
14 least:

- 15 1. Three (3) hours of federal law and regulations;
- 16 2. Three (3) hours of ethics, which shall include instruction
17 on fraud, consumer protection and fair lending issues; ~~and~~
- 18 3. Two (2) hours of training related to lending standards for
19 the nontraditional mortgage product marketplace; and
- 20 4. One (1) hour of Oklahoma law and regulations.

21 B. For purposes of subsection A of this section, prelicensing
22 education courses shall be reviewed and approved by the Nationwide
23 Mortgage Licensing System and Registry based upon reasonable
24

1 standards. Review and approval of a prelicensing education course
2 shall include review and approval of the course provider.

3 C. Nothing in this section shall preclude any prelicensing
4 education course as approved by the Nationwide Mortgage Licensing
5 System and Registry that is provided by the employer of the
6 applicant or an entity which is affiliated with the applicant by an
7 agency contract or any subsidiary or affiliate of such employer or
8 entity.

9 D. Prelicensing education may be offered either in a classroom,
10 online or by any other means approved by the Nationwide Mortgage
11 Licensing System and Registry.

12 E. The prelicensing education requirements approved by the
13 Nationwide Mortgage Licensing System and Registry in paragraph 1 of
14 subsection A and subsections B and C of this section for any state
15 shall be accepted as credit towards completion of prelicensing
16 education requirements in this state.

17 F. An individual previously licensed ~~under this act~~ pursuant to
18 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act,
19 subsequent to the effective date of this act July 1, 2009, and
20 applying to be licensed again, must prove ~~they have completed~~
21 completion of all of the continuing education requirements for the
22 year in which the license was last held.

1 SECTION 5. AMENDATORY 59 O.S. 2011, Section 2095.21, as
2 last amended by Section 12, Chapter 98, O.S.L. 2013 (59 O.S. Supp.
3 2014, Section 2095.21), is amended to read as follows:

4 Section 2095.21 A. In order to meet the annual continuing
5 education requirements as provided in subsection A of Section
6 2095.10 of this title, a licensed mortgage loan originator shall
7 complete at least eight (8) hours of education approved as provided
8 in subsection B of this section, which shall include at least:

- 9 1. Three (3) hours of federal law and regulations;
- 10 2. Two (2) hours of ethics, which shall include instruction on
11 fraud, consumer protection and fair lending issues; and
- 12 3. Two (2) hours of training related to lending standards for
13 the nontraditional mortgage product marketplace.

14 B. For purposes of subsection A of this section, continuing
15 education courses shall be reviewed and approved by the Nationwide
16 Mortgage Licensing System and Registry based upon reasonable
17 standards. Review and approval of a continuing education course
18 shall include review and approval of the course provider.

19 C. Nothing in this section shall preclude any education course
20 as approved by the Nationwide Mortgage Licensing System and Registry
21 that is provided by the employer of the mortgage loan originator or
22 an entity which is affiliated with the mortgage loan originator by
23 an agency contract or any subsidiary or affiliate of such employer
24 or entity.

1 D. Continuing education may be offered either in a classroom,
2 online or by any other means approved by the Nationwide Mortgage
3 Licensing System and Registry. ~~A licensed mortgage loan originator~~
4 ~~shall complete annual continuing education requirements in a~~
5 ~~classroom setting at least every two (2) years.~~

6 E. A licensed mortgage loan originator, except as provided in
7 subsection B of Section 2095.10 of this title and subsection I of
8 this section:

9 1. May only receive credit for a continuing education course in
10 the year in which the course is taken; and

11 2. May not take the same approved course in the same or
12 successive years to meet the annual requirements for continuing
13 education.

14 F. A licensed mortgage loan originator who is an approved
15 instructor of an approved continuing education course may receive
16 credit for the licensed mortgage loan originator's own annual
17 continuing education requirement at the rate of two (2) hours credit
18 for every one (1) hour taught.

19 G. An individual having successfully completed the education
20 requirements approved by the Nationwide Mortgage Licensing System
21 and Registry in paragraph 1 of subsection A and subsections B and C
22 of this section for any state shall be accepted as credit towards
23 completion of continuing education requirements in this state.
24

1 H. A licensed mortgage loan originator who subsequently becomes
2 unlicensed must complete the continuing education requirements for
3 the last year in which the license was held prior to issuance of a
4 new or renewed license.

5 I. An individual meeting the requirements of paragraphs 1 and 2
6 of subsection A of Section 2095.10 of this title may make up any
7 deficiency in continuing education as established by rule.

8 SECTION 6. This act shall become effective November 1, 2015.

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10 55-1-7338 EK 04/07/15