STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 377 By: Newberry

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Mortgage Secure and Fair Enforcement Licensing Act; amending 59 O.S. 2011, Sections 2095.1, 2095.3, 2095.6, as amended by Section 4, Chapter 98, O.S.L. 2013, 2095.8 and 2095.21, as amended by Section 12, Chapter 98, O.S.L. 2013 (59 O.S. Supp. 2014, Section 2095.6 and 2095.21), which relate to legislative findings, exemptions, licensing, education requirements, and loan originators; modifying language and reference; adding loan servicing; deleting certain provision for inactive status; expanding certain education requirement; removing certain continuing education for loan originator; and providing an effective date.

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 ~~or~~, offering, servicing or modification of financing for residential real property have a direct, valuable, and immediate impact upon Oklahoma's consumers, the Oklahoma economy, the neighborhoods and

communities of Oklahoma, and the housing and real estate industry. Therefore, the Legislature finds that accessibility to mortgage credit is vital to the state's citizens. The Legislature also finds that it is essential for the protection of the citizens of Oklahoma and the stability of the Oklahoma economy that reasonable standards for licensing and regulation of the business practices of mortgage brokers, mortgage lenders, and mortgage loan originators be imposed. The Legislature further finds that the obligations of mortgage brokers, mortgage lenders, and mortgage loan originators to consumers in connection with originating or making, ~~or~~ modifying or servicing residential mortgage loans are such as to warrant the regulation of the mortgage lending and servicing process. The purpose of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act is to protect consumers seeking mortgage loans and to ensure that the mortgage lending and servicing industry is operating without unfair, deceptive, and fraudulent practices on the part of mortgage brokers, mortgage lenders, and mortgage loan originators. Therefore, the Legislature establishes within ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act:

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

a. the authority to issue licenses to conduct business under this act, including the authority to write rules or regulations or adopt procedures necessary to the

licensing of entities or individuals covered ~~under this act~~ pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act,

b. the authority to censure, deny, place on probation, suspend or revoke licenses issued ~~under this act~~ pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, and

c. the authority to examine, investigate, and conduct enforcement actions as necessary to carry out the intended purposes of ~~this act~~ the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, including the authority to subpoena witnesses and documents, enter orders, including cease and desist orders, order restitution and monetary penalties, and order the removal and ban of individuals from office or employment; and

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

SECTION 2. AMENDATORY 59 O.S. 2011, 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. Registered mortgage loan originators, when acting for an entity described in divisions (1), (2) and (3) of subparagraph a of paragraph ~~17~~ 18 of Section 2095.2 of this title;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

E. For purposes of this section and in order to reduce points of contact which the Federal Bureau of Investigation may have to maintain for purposes of paragraph 1 and subparagraph b of paragraph 2 of subsection D of this section, the Administrator may use the Nationwide Mortgage Licensing System and Registry as a channeling

agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

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

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

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

I. A licensee shall pay the renewal fee on or before December 1. If the license is not renewed by December 1, the licensee shall pay a late renewal fee as prescribed by rule of the Commission on

Consumer Credit. Licenses not renewed by December 31 shall expire and the licensee shall not act as a mortgage broker, mortgage lender or mortgage loan originator until a new license is issued pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. A license shall not be granted to the holder of an expired license except as provided in the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act for the issuance of an original license.

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

~~K. An inactive licensee may return to active status notwithstanding the requirements of this section by making a request in writing to the Administrator for reactivation and paying the prorated portion of the annual fee that would have been charged to the licensee to maintain normal active status. The licensee shall~~

~~also provide the Administrator with proof that the licensee meets all of the other requirements for acting as a mortgage broker, mortgage lender or mortgage loan originator, including any applicable education and testing requirements.~~

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

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

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

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

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

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

~~6.~~ 5. A fee as prescribed by rule of the Commission on Consumer Credit shall be paid by applicants and licensees into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund as provided for in Section 2095.20 of this title for each initial application and each renewal application.

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

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

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

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

1. Three (3) hours of federal law and regulations;

2. Three (3) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; ~~and~~

3. Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace; and

4. One (1) hour of Oklahoma law and regulations.

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

C. Nothing in this section shall preclude any prelicensing education course as approved by the Nationwide Mortgage Licensing

System and Registry that is provided by the employer of the applicant or an entity which is affiliated with the applicant by an agency contract or any subsidiary or affiliate of such employer or entity.

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

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

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

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

Section 2095.21. A. In order to meet the annual continuing education requirements as provided in subsection A of Section 2095.10 of this title, a licensed mortgage loan originator shall

complete at least eight (8) hours of education approved as provided in subsection B of this section, which shall include at least:

1. Three (3) hours of federal law and regulations;

2. Two (2) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; and

3. Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.

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

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

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

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

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

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

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

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

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

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

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

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