

1 ENGROSSED SENATE
BILL NO. 377

By: Newberry of the Senate

2
3 and

4 McCall of the House

5
6 [Oklahoma Mortgage Secure and Fair Enforcement
7 Licensing Act - legislative findings, exemptions,
8 licensing, education requirements, and loan
9 originators - loan servicing - inactive status -
10 education requirement - effective date]

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

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

14 Section 2095.1. The activities of mortgage brokers, mortgage
15 lenders, and mortgage loan originators and the origination ~~or~~,
16 offering, servicing or modification of financing for residential
17 real property have a direct, valuable, and immediate impact upon
18 Oklahoma's consumers, the Oklahoma economy, the neighborhoods and
19 communities of Oklahoma, and the housing and real estate industry.
20 Therefore, the Legislature finds that accessibility to mortgage
21 credit is vital to the state's citizens. The Legislature also finds
22 that it is essential for the protection of the citizens of Oklahoma
23 and the stability of the Oklahoma economy that reasonable standards
24 for licensing and regulation of the business practices of mortgage

1 brokers, mortgage lenders, and mortgage loan originators be imposed.
2 The Legislature further finds that the obligations of mortgage
3 brokers, mortgage lenders, and mortgage loan originators to
4 consumers in connection with originating or making, ~~or~~ modifying or
5 servicing residential mortgage loans are such as to warrant the
6 regulation of the mortgage lending and servicing process. The
7 purpose of ~~this act~~ the Oklahoma Secure and Fair Enforcement for
8 Mortgage Licensing Act is to protect consumers seeking mortgage
9 loans and to ensure that the mortgage lending and servicing industry
10 is operating without unfair, deceptive, and fraudulent practices on
11 the part of mortgage brokers, mortgage lenders, and mortgage loan
12 originators. Therefore, the Legislature establishes within ~~this act~~
13 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act:

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

- 16 a. the authority to issue licenses to conduct business
17 under this act, including the authority to write rules
18 or regulations or adopt procedures necessary to the
19 licensing of entities or individuals covered ~~under~~
20 ~~this act~~ pursuant to the Oklahoma Secure and Fair
21 Enforcement for Mortgage Licensing Act,
- 22 b. the authority to censure, deny, place on probation,
23 suspend or revoke licenses issued ~~under this act~~

24

1 pursuant to the Oklahoma Secure and Fair Enforcement
2 for Mortgage Licensing Act, and

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

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

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

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

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

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

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

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

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

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

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

20 B. In order to fulfill the purposes of the Oklahoma Secure and
21 Fair Enforcement for Mortgage Licensing Act, the Administrator is
22 authorized to establish relationships or contracts with the
23 Nationwide Mortgage Licensing System and Registry or other entities
24 designated by the Nationwide Mortgage Licensing System and Registry

1 to collect and maintain records and process transaction fees or
2 other fees related to licensees or other entities or individuals
3 subject to the Oklahoma Secure and Fair Enforcement for Mortgage
4 Licensing Act.

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

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

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

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

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

21 D. In connection with an application for licensing as a
22 mortgage broker or mortgage lender, the applicant shall, at a
23 minimum, furnish to the Nationwide Mortgage Licensing System and
24

1 Registry information concerning each owner, officer, director or
2 partner, as applicable including:

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

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

10 a. an independent credit report obtained from a consumer
11 reporting agency described in 15 U.S.C., Section
12 1681a(p), and

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

15 E. For purposes of this section and in order to reduce points
16 of contact which the Federal Bureau of Investigation may have to
17 maintain for purposes of paragraph 1 and subparagraph b of paragraph
18 2 of subsection D of this section, the Administrator may use the
19 Nationwide Mortgage Licensing System and Registry as a channeling
20 agent for requesting information from and distributing information
21 to the Department of Justice or any governmental agency.

22 F. For the purposes of this section and in order to reduce the
23 points of contact which the Administrator may have to maintain for
24 purposes of subparagraphs a and b of paragraph 2 of subsection D of

1 this section, the Administrator may use the Nationwide Mortgage
2 Licensing System and Registry as a channeling agent for requesting
3 and distributing information to and from any source so directed by
4 the Administrator.

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

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

17 I. A licensee shall pay the renewal fee on or before December
18 1. If the license is not renewed by December 1, the licensee shall
19 pay a late renewal fee as prescribed by rule of the Commission on
20 Consumer Credit. Licenses not renewed by December 31 shall expire
21 and the licensee shall not act as a mortgage broker, mortgage lender
22 or mortgage loan originator until a new license is issued pursuant
23 to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing
24 Act. A license shall not be granted to the holder of an expired

1 license except as provided in the Oklahoma Secure and Fair
2 Enforcement for Mortgage Licensing Act for the issuance of an
3 original license.

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

15 ~~K. An inactive licensee may return to active status~~
16 ~~notwithstanding the requirements of this section by making a request~~
17 ~~in writing to the Administrator for reactivation and paying the~~
18 ~~prorated portion of the annual fee that would have been charged to~~
19 ~~the licensee to maintain normal active status. The licensee shall~~
20 ~~also provide the Administrator with proof that the licensee meets~~
21 ~~all of the other requirements for acting as a mortgage broker,~~
22 ~~mortgage lender or mortgage loan originator, including any~~
23 ~~applicable education and testing requirements.~~

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

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

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

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

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

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

16 ~~6.~~ 5. A fee as prescribed by rule of the Commission on Consumer
17 Credit shall be paid by applicants and licensees into the Oklahoma
18 Mortgage Broker and Mortgage Loan Originator Recovery Fund as
19 provided for in Section 2095.20 of this title for each initial
20 application and each renewal application.

21 ~~7.~~ 6. An examination fee shall be as prescribed by rule of the
22 Commission on Consumer Credit.

23 ~~8.~~ 7. An application fee shall be as prescribed by rule of the
24 Commission on Consumer Credit.

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

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

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

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

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

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

14 B. For purposes of subsection A of this section, prelicensing
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 prelicensing education course
18 shall include review and approval of the course provider.

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

1 D. Prelicensing 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.

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

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

15 SECTION 5. AMENDATORY 59 O.S. 2011, Section 2095.21, as
16 last amended by Section 12, Chapter 98, O.S.L. 2013 (59 O.S. Supp.
17 2014, Section 2095.21), is amended to read as follows:

18 Section 2095.21. A. In order to meet the annual continuing
19 education requirements as provided in subsection A of Section
20 2095.10 of this title, a licensed mortgage loan originator shall
21 complete at least eight (8) hours of education approved as provided
22 in subsection B of this section, which shall include at least:

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

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

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

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

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

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

21 E. A licensed mortgage loan originator, except as provided in
22 subsection B of Section 2095.10 of this title and subsection I of
23 this section:
24

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

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

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

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

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

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

23 SECTION 6. This act shall become effective November 1, 2015.
24

