

*Title 7. Banking and Securities*

*Part 1. Finance Commission of Texas*

*Chapter 2. Residential Mortgage Loan Originators*

*Applying for Licensure with the Office of Consumer Credit Commissioner*

*Under the Secure and Fair Enforcement for Mortgage Licensing Act*

*§2.104. Application and Renewal Fees*

The Finance Commission of Texas (commission) adopts amendments to 7 TAC §2.104, concerning Application and Renewal Fees for residential mortgage loan originators applying for licensure with the Office of Consumer Credit Commissioner (OCCC) under the Secure and Fair Enforcement for Mortgage Licensing Act.

The commission adopts the amendments without changes to the proposed text as published in the December 26, 2014, issue of the *Texas Register* (39 TexReg 10116).

The commission received no written comments on the proposal.

In general, the purpose of the amendments to §2.104 is to implement changes resulting from the commission's review of Chapter 2 under Texas Government Code, §2001.039. The notice of intention to review 7 TAC, Part 1, Chapter 2 was published in the *Texas Register* on November 7, 2014 (39 TexReg 8745). The agency did not receive any comments on the notice of intention to review.

The adopted amendments to §2.104 provide clarification regarding the refunding of application and renewal fees for OCCC applicants under Texas Finance Code, Chapter 180, Residential Mortgage Loan Originators (RMLOs), the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

Section 2.104 sets out the required application and renewal fees for OCCC applicants and licensees. These fees must be submitted to the Nationwide Mortgage Licensing System and Registry (NMLS). The amendments are contained in subsection (a), which previously stated that all fees may not be refunded or transferred without exception.

The NMLS does not provide refunds of NMLS system fees, but defers to individual states whether the state in question wishes to refund the state portion of the application or renewal fee. The OCCC has frequently encountered extenuating circumstances that would warrant the refunding of state RMLO fees. The amendments allow the OCCC to refund state RMLO fees in appropriate situations.

Accordingly, the adopted amendments revise §2.104(a) by adding a new sentence after the existing last sentence, resulting in the last two sentences to read as follows: "All fees are nonrefundable and nontransferable. However, upon review of individual circumstances, the OCCC may refund or transfer the state fees."

These amendments are adopted under Texas Finance Code, §180.004, which authorizes the commission to implement rules necessary to comply with Chapter 180 and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289). Additionally, the amendments

are also adopted under Texas Finance Code, §180.061, which authorizes the commission to adopt rules establishing requirements as necessary for payment of fees to apply for or renew licenses through the NMLS, and under Texas Finance Code, §14.107, which authorizes the commission by rule to set the fees for licensing and examination under Chapter 342, 347, 348, or 351 at amounts or rates necessary to recover the costs of administering those and other chapters.

The statutory provisions affected by the adopted amendments are contained in Texas Finance Code, Chapter 180, Residential Mortgage Loan Originators, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009, and Texas Finance Code, Chapters 342, 347, 348, and 351.

*§2.104. Application and Renewal Fees.*

(a) Required submission to NMLS. To become an RMLO, an OCCC applicant must submit the required fees to NMLS. A fee is required to be submitted at the time of application and at the time of renewal. All fees are nonrefundable and nontransferable. However, upon review of individual circumstances, the OCCC may refund or transfer the state fees.

(b) Fingerprint processing fees. Fingerprint processing fees must also be paid in the amount necessary to recover the costs of investigating the OCCC applicant's fingerprint record (amount required by third party).

(c) OCCC application and renewal fees. The Finance Commission of Texas sets the RMLO application fee at an amount not to exceed \$300 and the RMLO annual renewal fee not to exceed \$300 for applications filed with the OCCC. Annual renewal fees are

due to NMLS by December 31 of each year. A third party operates NMLS and that third-party operator sets the amount of the required system fees. Applicants and RMLOs must pay all required application and renewal fees, fingerprint processing fees, and any additional amounts required by the third-party operator.

(d) OCCC reinstatement period and fee. The Finance Commission of Texas sets the RMLO reinstatement fee at \$50 for applications filed with the OCCC. The reinstatement period for OCCC applicants runs from January 1 through the last day of February each year.

**Certification**

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas on February 20, 2015.

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