

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~[Square brackets and strikethrough]~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 7. BANKING AND SECURITIES

PART 1. FINANCE COMMISSION OF TEXAS

CHAPTER 2. RESIDENTIAL MORTGAGE LOAN ORIGINATORS REGULATED BY THE OFFICE OF CONSUMER CREDIT COMMISSIONER

SUBCHAPTER A. APPLICATION PROCEDURES

7 TAC §2.102

The Finance Commission of Texas (commission) proposes amendments to §2.102 (relating to Registration with Nationwide Mortgage Licensing System and Registry) in 7 TAC Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The rule at §2.102 relates to procedures for an individual to register with the NMLS system as a residential mortgage loan originator (RMLO). In general, the purpose of the proposed rule changes to 7 TAC §2.102 is to remove language providing that certain entities are not required to register with NMLS, in order to support efforts to migrate license groups to NMLS.

The Office of Consumer Credit Commissioner (OCCC) distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder webinar regarding the rule changes. During the webinar, the OCCC answered questions from stakeholders about the rule proposal. The OCCC appreciates the input provided by stakeholders. The OCCC did not receive any written precomments on the rule text draft.

The Nationwide Multistate Licensing System (NMLS) is an online platform used by state financial regulatory agencies to manage licenses, including license applications and renewals. State agencies created NMLS in 2008. The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 explains that the purposes of NMLS include increasing uniformity and reducing regulatory burden. Federal SAFE Act, 12 USC §5101. Each state currently uses NMLS for licensing individual RMLOs, and 59 state agencies use the system for licensing mortgage companies. See NMLS, Q1 2024 Mortgage Industry Report (June 2024). NMLS is managed by the Conference of State Bank Supervisors and is subject to ongoing modernization efforts and enhancements.

Under Texas Finance Code, §14.109, the OCCC is authorized to require use of NMLS for certain license and registration types.

During calendar year 2025, the OCCC intends to begin a phased process of migrating license groups from ALECS (the OCCC's current licensing platform) to NMLS. The OCCC believes that moving to NMLS will improve the user experience of the licensing system and promote efficiency. This is particularly true for entities that hold licenses with the OCCC and with another state agency, because these entities will be able to manage multiple licenses through NMLS.

Currently, the rule at §2.102 describes procedures for an individual to register with NMLS as an RMLO. Current §2.102(b) states: "Entities licensed or applying for a license with the OCCC to make, transact, or negotiate residential mortgage loans are not required to register with NMLS."

Proposed amendments to §2.102 would remove current subsection (b). This change would support the OCCC's efforts to begin migrating license groups to NMLS. This change is consistent with the OCCC's authority under Texas Finance Code, §14.109, to require use of the NMLS system for certain license and registration types. Other proposed amendments throughout §2.102 would renumber other subsections accordingly.

Mirand Diamond, Director of Licensing, Finance and Human Resources, has determined that for the first five-year period the proposed rule changes are in effect, there will be no fiscal implications for state or local government as a result of administering the rule changes.

Mirand Diamond, Director of Licensing, Finance and Human Resources, has determined that for each year of the first five years the proposed rule changes are in effect, the public benefits anticipated as a result of the changes will be that the commission's rules will be more easily understood by licensees required to comply with the rules, and that the OCCC will be better enabled to use its existing authority under Texas Finance Code, §14.109, to use NMLS as a licensing system, resulting in an improved user experience and efficiency for multistate entities.

In general, the OCCC anticipates that any economic costs for persons required to comply with the proposed rule changes will be minimal. The proposed rule change only affects companies licensed or applying for a license with the OCCC to make, transact, or negotiate residential mortgage loans. If a company is not already registered with NMLS, then the company would pay a \$100 initial setup fee and annual processing fee, with a pending proposal to adjust this amount to \$120. See NMLS, 2024 NMLS Processing Fee Review Frequently Asked Questions (Oct. 2024). Certain entities with more than one RMLO or associated with other license types may also pay other nominal fees to NMLS. For regulated lender licensees, the OCCC typically attempts to minimize regulatory burden by discounting license renewal assessment fees, with a \$180 discount for active licenses in fiscal year 2025. Some labor costs may result from

uploading information and documents to NMLS, but the OCCC anticipates that these costs will be minimal, because licensees should already have this information available in the OCCC's existing licensing system or in the licensee's own records.

The OCCC is not aware of any adverse economic effect on small businesses, micro-businesses, or rural communities resulting from this proposal. But in order to obtain more complete information concerning the economic effect of these rule changes, the OCCC invites comments from interested stakeholders and the public on any economic impacts on small businesses, as well as any alternative methods of achieving the purpose of the proposal while minimizing adverse impacts on small businesses, micro-businesses, and rural communities.

During the first five years the proposed rule changes will be in effect, the rules will not create or eliminate a government program. Implementation of the rule changes will not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the rule changes will not require an increase or decrease in future legislative appropriations to the OCCC, because the OCCC is a self-directed, semi-independent agency that does not receive legislative appropriations. The proposal does not require an increase or decrease in fees paid to the OCCC. The proposal would not create a new regulation. The proposal would limit current §2.102 by removing text indicating that certain entities are not required to register with NMLS. The proposal would not expand or repeal an existing regulation. The proposed rule changes do not increase or decrease the number of individuals subject to the rule's applicability (although entities that make, transact, or negotiate residential mortgage loans would no longer be subject to the exception in current §2.102(b)). The agency does not anticipate that the proposed rule changes will have an effect on the state's economy.

Comments on the proposal may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*. After the 30th day after the proposal is published in the *Texas Register*, no further written comments will be considered or accepted by the commission.

The rule amendments are proposed under Texas Finance Code, §11.304, which authorizes the commission to adopt rules necessary to supervise the OCCC and ensure compliance with Texas Finance Code, Chapter 14 and Title 4. In addition, Texas Finance Code, §180.004, authorizes the commission to implement rules necessary to comply with Texas Finance Code, Chapter 180, and to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act. Also, Texas Finance Code, §180.061, authorizes the commission to adopt rules establishing requirements for licensing through NMLS.

The statutory provisions affected by the proposal are contained in Texas Finance Code, Chapters 14 and 180.

§2.102. *Registration with Nationwide Mortgage Licensing System and Registry.*

(a) Individuals. Individuals applying for a license with the OCCC and who, for actual or expected compensation or gain, take a residential mortgage loan application, or who offer or negotiate the terms of a residential mortgage loan, are required to register with NMLS, except for individuals engaged in authorized activity subject

to the authority of a regulatory official under Texas Finance Code, §180.251(a).

~~(b) Entities. Entities licensed or applying for a license with the OCCC to make, transact, or negotiate residential mortgage loans are not required to register with NMLS.~~

(b) ~~(e)~~ Withdrawal of application. If an application is not completed within 30 calendar days after notice of deficiency has been sent to the applicant, the application may be considered abandoned and will be withdrawn.

(c) ~~(4)~~ Inactive status. The OCCC may issue a license in an inactive status if the applicant complies with all requirements of licensure and completes the required application except for the requirement of providing an employer. After the inactive RMLO has submitted an employer and the OCCC has verified that the employer is currently registered or licensed by the OCCC, the license may be changed to active status.

(d) ~~(e)~~ Conditional status. The OCCC may issue a license on a conditional basis.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 13, 2024.

TRD-202406010

Matthew Nance

General Counsel, Office of Consumer Credit Commissioner

Finance Commission of Texas

Earliest possible date of adoption: January 26, 2025

For further information, please call: (512) 936-7660

◆ ◆ ◆

TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 1. ADMINISTRATION

SUBCHAPTER A. GENERAL POLICIES AND PROCEDURES

10 TAC §1.23

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23, State of Texas Low Income Housing Plan and Annual Report (SLIHP). The purpose of the proposed repeal is to eliminate an outdated rule while adopting a new updated rule under separate action, in order to adopt by reference the 2025 SLIHP.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed repeal would be in effect: