

ADOPTION OF AMENDMENTS

7 TAC §155.2

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Title 7. Banking and Securities
Part 8. Joint Financial Regulatory Agencies.
Chapter 155. Payoff Statements.
Subchapter A. Registration.
7 TAC §155.2. Payoff Statement Form.

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (SML), the Office of the Consumer Credit Commissioner (OCCC), and the Texas Department of Banking (DOB; SML, OCCC, and DOB, collectively, the "joint financial regulatory agencies"), adopts amendments to existing Title 7 Texas Administrative Code (TAC), Part 8, Chapter 155, Subchapter A, §155.2, without changes to the text as published in the July 3, 2020 issue of the *Texas Register* (45 TexReg 4454).

EXPLANATION OF AND
JUSTIFICATION FOR THE RULE

7 TAC, Chapter 155 contains the administrative rules of the joint financial regulatory agencies concerning requirements for the creation and delivery of payoff statements for home loans. The amendments arose in part from the joint financial regulatory agencies' periodic review of Chapter 155, conducted pursuant to Government Code, §2001.039. The commission, determining that the reasons for initially adopting the rules contained in Chapter 155 continued to exist, readopted such rules in the January 3, 2020 issue of the *Texas Register* (45 TexReg 162). While readopting the rules, the commission contemporaneously proposed amendments to 7 TAC §155.2 (45 TexReg 33). The amendments proposed at that time were limited to non-substantive formatting

changes to reconcile differences between the form published on SML's website and the form embedded in §155.2. However, during the period for public comment to such proposal, the joint financial regulatory agencies received one comment submitted by the Texas Land Title Association (commenter) requesting that the payoff statement form be revised to include additional information. Specifically, the commenter requested that, in order for the title company to more easily verify the loan servicer has correctly identified the loan for which the payoff statement was requested, the payoff statement form state the loan number assigned for identification purposes, or if the loan number is not available, the original loan amount. The joint financial regulatory agencies determined the comment and proposed revisions had merit and that the revisions should be considered by the commission for potential adoption. The joint financial regulatory agencies further determined that the revisions would be best achieved by amending the rule to impose the requirement within the actual text of the rule, in addition to making corresponding changes to the form embedded in the rule. Given the revisions made substantive changes to the text of the rule and to the form embedded in the rule beyond the non-substantive formatting changes initially proposed, the joint financial regulatory agencies determined it would be prudent to republish the rule as a new rule proposal for public comment. The initial January 3, 2020 proposal was withdrawn at the same time the second proposal affecting the rule was published in the *Texas Register* (45 TexReg 4497). The amendments adopted effectuate the revisions suggested by the commenter, in

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addition to the non-substantive formatting amendments proposed in the initial January 3, 2020 proposal.

SUMMARY OF PUBLIC COMMENTS

Publication of the joint financial regulatory agencies' proposal to amend 7 TAC §155.2 recited a deadline of 30 days to receive public comments, or August 2, 2020. A public hearing in accordance with Government Code §2001.029 was not required. No comments were received in response to the proposal.

STATUTORY AUTHORITY

Amended 7 TAC §155.2 is adopted under the authority of, and to implement, Finance Code §343.106(b), which requires the commission to adopt rules governing requests by title insurance companies for payoff information from mortgage servicers related to home loans and the provision of that information, including rules prescribing a standard payoff statement form that must be used by mortgage servicers to provide payoff statements.

The adoption of amended 7 TAC §155.2 affects the statutes contained in Finance Code, Chapter 343.

<rule>

Subchapter A. Form and Delivery [~~Registration~~].

§155.2. Payoff Statement Form.

(a) Requests made pursuant to this chapter shall be in writing and submitted to the mortgage servicer by mail, email [~~electronic mail~~], or fax [~~facsimile~~]. If the mortgage servicer has designated a specific mailing [~~physical~~] address, [;] email [~~electronic mail~~] address, fax number, [;] and/or a specific representative to receive

requests made pursuant to this chapter, then requests shall be submitted in accordance with such designation. Requests for a payoff statement shall, at a minimum, include the following:

(1) - (3) (No change.)

(b) Upon receipt of a valid request made under subsection (a) of this section, a mortgage servicer shall provide, in writing, by mail or email [~~electronic mail~~], the payoff statement information for the home loan specified in the request which must be provided on the prescribed payoff statement form, Figure 7 TAC §155.2(c)(6), or in a substantially similar format which contains all elements not indicated as optional on the prescribed payoff statement form. The statement must include the following information:

(1) - (2) (No change.)

(3) Sufficient information to identify the loan for which the payoff information is provided, including:

(A) the loan number, if available;

or

(B) the original amount of the loan, if the loan number is not available.

(c) If applicable, the payoff statement may contain:

(1) - (5) (No change.)

(6) Other information necessary to provide a clear and concise payoff statement.

Figure: 7 TAC §155.2(c)(6) [~~Figure: 7 TAC §155.2(e)(6)~~]

Certification

The agency certifies that legal counsel has reviewed the proposal and found it to be

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within the state agency's legal authority to adopt.

Iain A. Berry
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Lending

PAYOFF STATEMENT FORM

Name of Mortgage Servicer _____
Name of Representative _____
Street or E-mail Address _____
City, State, Zip Code _____

REQUEST DATE: ___/___/___

SENT BY: Mail E-mail
 Facsimile

LOAN INFORMATION

MORTGAGOR: _____

NEXT PAYMENT DUE DATE: ___/___/___

COLLATERAL: _____

LOAN TYPE: _____

LOAN NUMBER: _____

ORIGINAL LOAN AMOUNT: _____

AMOUNT DUE

THIS STATEMENT REFLECTS THE TOTAL AMOUNT DUE UNDER THE TERMS OF THE NOTE/SECURITY INSTRUMENT THROUGH THE CLOSING DATE WHICH IS ___/___/_____. If this obligation is not paid in full by this date, then you should obtain from us an updated payoff amount before closing.

Total Principal, Interest, and other amounts due under the Note/Security Instrument:

Unpaid Principal Balance:	\$	_____
Interest through ___/___/_____	\$	_____
Less Reductions in amount due	\$	_____
_____	\$	_____
_____	\$	_____
_____	\$	_____
_____	\$	_____
TOTAL AMOUNT DUE:	\$	_____

WHERE TO SUBMIT PAYOFF FUNDS

WIRE TRANSFER

Beneficiary Name: _____
Beneficiary/Receiving Bank: _____
Beneficiary Bank ABA: _____
Beneficiary Bank Account: _____
Special Information to Beneficiary: _____

OVERNIGHT MAIL

Attention: _____
Company: _____
Address: _____

LEGAL NOTICES

TEXAS FINANCE CODE § 343.106 REQUIRES PAYOFF STATEMENT CONTAIN CLOSING DATE AND DATE THROUGH WHICH PAYOFF AMOUNT IS VALID. THESE REQUIREMENTS CANNOT BE DELETED FROM PAYOFF STATEMENT.

REQUEST TO RESPOND TO A REQUEST MADE UNDER THE STATUTE.
ANY AMOUNT HELD IN ESCROW AT CLOSING WILL BE SETTLED IN ACCORDANCE WITH APPLICABLE FEDERAL LAW.

TEXAS FINANCE CODE § 343.106 REQUIRES THE IMPLEMENTING RULE TO ALLOW MORTGAGE SERVICERS AT LEAST SEVEN (7) BUSINESS DAYS FROM THE DATE OF RECEIPT OF PAYOFF

OPTIONAL SECTIONS

ORIGINAL LOAN AMOUNT:

This is an Adjustable Rate Mortgage. Under the terms of this loan the next Change Date for the interest rate charged is ___/___/_____. We will only issue a payoff good through the next Change Date. If the closing date is past the next Change Date an updated Payoff Statement from us will be required.

If loan has quotable per diem interest, then "Funds received after ___/___/_____ will be subject to an additional \$ _____ of interest per day." FUNDS MUST BE RECEIVED BY _____ FOR SAME-DAY PROCESSING. PAYOFFS ARE NOT POSTED ON WEEKENDS OR HOLIDAYS. INTEREST WILL BE ADDED TO THE ACCOUNT FOR THESE DAYS.

NOTE: This Note/Security Instrument is due for payment on ___/___/_____. If payment is not received within _____ days of the current payment due date, a late charge of \$ _____ will be assessed. Please add that amount to the payoff total.

Escrow Disbursement Amounts & Dates:

Description(s):	Amount(s) Held:	Next Disbursement Date(s):
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____

Release of Lien Processing: