

*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*

*Subchapter A. Application Procedures for Office of Consumer Credit Commissioner Applicants*

*§2.107. Prelicensing Education*

The Finance Commission of Texas (commission) adopts new §2.107, concerning Prelicensing Education, in 7 TAC, Chapter 2, concerning Residential Mortgage Loan Originators Applying for Licensure with the Office of Consumer Credit Commissioner Under the Secure and Fair Enforcement for Mortgage Licensing Act.

The commission adopts new §2.107 without changes to the proposed text as published in the November 3, 2017, issue of the *Texas Register* (42 TexReg 6067).

The commission received no written comments on the proposal.

In general, the purpose of the new rule is to implement HB 3342, which the Texas Legislature passed in the 2017 legislative session. HB 3342 authorizes the commission to set the expiration period for prelicensing education of residential mortgage loan originators. Before HB 3342, Texas Finance Code, §180.056(h) stated: "An individual who fails to maintain a residential mortgage loan originator license for at least five consecutive years must retake the prelicensing education requirements prescribed by the S.A.F.E. Mortgage Licensing Act." HB 3342 amends this provision by replacing "at least five consecutive years" with "the period of time established by rule of the rulemaking authority." In this provision, "rulemaking authority" refers to the commission, as

provided by Texas Finance Code, §180.002(21). HB 3342 goes into effect on January 1, 2018.

Adopted new §2.107 provides a five-year expiration period for prelicensing education. This is the same period described by current Texas Finance Code, §180.056(h). The five-year period is currently used by the Nationwide Multistate Licensing System (NMLS), the system for licensing residential mortgage loan originators.

Section 2.107(a) states that if an individual completes the 20 hours of prelicensing education required by the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §5104(c)(1), and fails to obtain a valid license or federal registration within five years from the date of completion, then the individual must retake the 20 hours of prelicensing education in order to be eligible for licensure. Section 2.107(b) states that if an individual obtains a license or federal registration and fails to maintain the license or registration for at least five consecutive years, then the individual must retake the 20 hours of prelicensing education required by the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §5104(c)(1), in order to be eligible for licensure.

The State Regulatory Registry (SRR) has proposed reducing the five-year expiration period to three years, as explained in SRR's "Response to Comments Received

During the SRR Comment Period on the Proposed Pre-Licensure Education Expiration Policy," dated July 21, 2015. However, this change has not yet taken effect in the NMLS system. The agency anticipates that the change will occur as part of an NMLS update currently scheduled for fall 2018. The agency intends to revisit the rule in 2018. Because the change to a three-year period will take some time to be effective, the commission is currently adopting a five-year period consistent with current requirements.

The new rule is adopted under Texas Finance Code, §180.004(b), which grants the commission the authority to implement rules to comply with Texas Finance Code, Chapter 180. Additionally, Texas Finance Code, §180.056(h), as amended by HB 3342, authorizes the commission to adopt a rule establishing the period of time after which an individual must retake prelicensing education requirements. Texas Finance Code, §180.056(a) authorizes the commission to adopt rules providing additional requirements for prelicensing education. Texas Finance Code, §180.061(4) authorizes the commission to adopt rules establishing requirements for any activity the agency considers necessary for participation in NMLS.

The statutory provisions affected by the adopted new rule are contained in Texas Finance Code, §180.056.

§2.107. Prelicensing Education.

(a) Failing to obtain license. If an individual completes the 20 hours of prelicensing education required by the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §5104(c)(1), and fails to obtain a valid RMLO license or federal registration within

five years from the date of completion, then the individual must retake the 20 hours of prelicensing education in order to be eligible for licensure.

(b) Failing to maintain license. If an individual obtains an RMLO license or federal registration and fails to maintain the license or registration for at least five consecutive years, then the individual must retake the 20 hours of prelicensing education required by the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §5104(c)(1), in order to be eligible for licensure.

**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 December 15, 2017.

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