

Effective date of revisions: 7-13-2007. Revisions are marked

Oklahoma Department of Consumer Credit

Oklahoma Administrative Code

Title 160

Chapters 1-3-5-55



Effective date of revisions: 7-13-2007. Revisions are marked

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TITLE 160. DEPARTMENT OF CONSUMER CREDIT

CHAPTER 1. ORGANIZATION

160:1-1-1. Purpose

The rules in this chapter provide the organizational framework for the Department of Consumer Credit.

160:1-1-1.1. Department of Consumer Credit

(a) The Department is composed of the Administrator, the Deputy Administrator and such employees as are required and provided for by law [14A:6-506, 6-507 and 6-510].

(b) The policy-making and governing authority of the Department is the Commission on Consumer Credit [14A:6-501]. The Commission schedules regular meetings monthly in Oklahoma City [14A:6-504]. The meetings are open to the public [25:303].

160:1-1-1.2. Duties of Administrator

(a) The Administrator, as the head of the Department, is charged with the duty of administering and enforcing all provisions of:

- (1) the Uniform Consumer Credit Code beginning at §1-101 of Title 14A of the Oklahoma Statutes;
- (2) the Oklahoma Rental-Purchase Act beginning at §1950 of Title 59 of the Oklahoma Statutes;
- (3) the Oklahoma Pawnshop Act beginning at §1501 of Title 59 of the Oklahoma Statutes;
- (4) the Precious Metal and Gem Dealer Licensing Act beginning at §1521 of Title 59 of the Oklahoma Statutes;
- (5) the Credit Services Organization Act beginning at §131 of Title 24 of the Oklahoma Statutes;
- (6) the Oklahoma Health Spa Act beginning at §2000 of Title 59 of the Oklahoma Statutes; ~~and~~;
- (7) the Mortgage Broker Licensure Act beginning at §2081 of Title 59 of the Oklahoma Statutes; and,
- (8) the Deferred Deposit Lending Act beginning at §3101 of Title 59 of the Oklahoma Statutes.

(b) When the Administrator is absent or unable to act for any reason, then the Deputy Administrator shall perform the duties of Administrator [14A:6-507].

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CHAPTER 3. PROCEDURE

160:3-1-1. Purpose

The rules in this chapter provide the procedural framework for the Department of Consumer Credit and provide the necessary channels through which the public can gain information about the Department and its functions.

160:3-1-1.1. Requests for information

- (a) Requests for information may be made electronically, by telephone, by facsimile, by mail, or by personal appearance.
- (1) The Department's web page address is www.okdocc.state.ok.us.
 - (2) The Department's telephone numbers are (405) 521-3653 and (800) 448-4904.
 - (3) The Department's facsimile number is (405) 521-6740.
 - (4) The Department's address is 4545 N. Lincoln Boulevard, Suite 104, Oklahoma City, OK 73105.
 - (5) The Department's regular business hours are 8:00 a.m. to 4:30 p.m.
- (b) The Oklahoma Open Records Act beginning at §24A.1 of Title 51 of the Oklahoma Statutes sets forth the records that shall be open to any person for inspection, copying or mechanical reproduction.
- (c) Where the request is for materials of which copies are not available and photocopying or reproduction by other means is required, such service shall be provided upon payment of the appropriate fee.

160:3-1-1.2. Official actions

- (a) **Official acts in writing and open to the public.** All official acts of the Administrator shall be evidenced by written record. All final orders, decisions, opinions, rules and other written statements of policy or interpretations formulated, adopted or used in the discharge of the functions of the Administrator shall be available for public inspection. Official action of the Administrator shall not be bound or prejudiced by any informal statement or opinion made by the Administrator or employees of the Administrator.
- (b) **Official action to be taken only in real cases, controversies or issues.** Official actions shall only be taken on matters formally pending before the Administrator for determination, and then only if such matter be an actual case, controversy or issue.
- (c) **Declaratory rulings.**
- (1) An interested person may file a petition for a declaratory ruling as to the applicability of any rule or order. The petition shall:
 - (A) be in writing;
 - (B) refer to the rule or order involved;
 - (C) state the nature and purpose of the declaratory ruling sought;
 - (D) state the fact situation with respect to which the declaratory ruling is sought; and,
 - (E) list the name and address of the person requesting the ruling.
 - (2) The Administrator may require any petitioner to provide additional information. A petition is not considered final until all requested information has been submitted. The failure to provide additional information shall be deemed to be a withdrawal of the petition.
 - (3) Official rulings may be made by and at the discretion of the Administrator as to the applicability of any rule or order. Generally, an official ruling will only be given if it is shown that an actual case, controversy or issue is in contemplation on the hypotheses presented and that unreasonable hardship, loss or delay would result if the matter were not determined in advance.
 - (4) The declaratory ruling requested or refusal to issue such ruling shall be issued within thirty (30) workdays from receipt of the final petition, and shall be subject to review in accordance with the Administrative Procedures Act beginning at §250 of Title 75 of the Oklahoma Statutes [75:307].
- (d) **Rights not limited.** This section shall not be interpreted as limiting the right of the Administrator to cause matters to become formally pending and to perform any function or duty prescribed by law or rule.

160:3-1-1.3. Petitions for rulemaking

- (a) An interested person may file a petition requesting the promulgation, amendment or repeal of a rule [75:305]. The petition shall:
- (1) be in writing;
 - (2) refer to the statutory section that authorizes the rulemaking action requested;
 - (3) refer to the statutory section and the rule involved;
 - (4) state the exact language requested;
 - (5) state the purpose of the rule sought;
 - (6) state a fact situation to which the rule sought will apply; and,
 - (7) list the name and address of the person requesting the rule.
- (b) The Administrator may require any petitioner to provide additional information. A petition is not considered final until all requested information has been submitted. The failure to provide additional information shall be deemed to be a withdrawal of the petition.

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(c) The petition shall be deemed to have been denied if rulemaking proceedings have not been initiated within thirty (30) calendar days from receipt of a final petition [75:305].

160:3-1-1.4. Complaint form

The complaint form is used by the Department to gather information regarding grievances. This information is used to contact licensees to seek resolutions. The information obtained in the course of any complaint shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state.

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CHAPTER 5. FEES

160:5-1-1. Purpose

The rules in this chapter set forth the fees charged by the Department of Consumer Credit relating to the various entities that are regulated by the Department and to open records.

160:5-1-2. Fees

Fees charged by the Department are as follows:

(1) Supervised Lenders

- (A) \$150.00 application fee for license, except that for any license granted after June 30, the fee shall be \$75.00 [14A:3-503(1)]
- (B) \$225.00 investigation fee for license [14A:3-503(1)]
- (C) \$150.00 annual renewal fee [14A:3-504(5)] and a \$50.00 late fee for a late application for renewal of a license received after December 1 [14A:3-504(5)]
- (D) For any examination under one-half hour, no fee. For any examination over one-half hour up to eight (8) hours, \$300.00. For any examination in excess of eight (8) hours, \$300.00 plus \$50.00 per examiner per hour for each full hour, or pro rata for each partial hour, over eight (8) hours. A \$50.00 late fee shall be imposed when the examination fee is not received within thirty (30) days of the invoice date. No licensee shall be assessed a total fee in excess of Six Hundred Fifty Dollars (\$650.00) for each licensed office in any calendar year. [14A:3-506(1)]
- (E) \$25.00 fee for a duplicate or amended license [14A:3-504(5)]
- (F) \$25.00 fee for a returned check [14A:3-506(10)]
- (G) \$25.00 late fee for any annual report received after May 1 [14A:3-506(5)]
- (H) All fees are non-refundable unless the Code or these rules require otherwise.

(2) Notifications

- (A) \$20.00 annual filing fee [14A:6-203(1)]
- (B) sellers, lessors, lenders and assignees shall pay the \$20.00 annual filing fee plus \$10.00 per \$100,000.00 of business conducted in Oklahoma [14A:6-203(2) and (3)]
- (C) All fees are non-refundable unless the Code or these rules require otherwise.

(3) Pawnbrokers

- (A) \$100.00 application fee for license, except that for any application filed after June 30, the fee shall be \$50.00 [59:1505(A)]
- (B) \$125.00 investigation fee for license [59:1505(A)]
- (C) \$100.00 annual renewal fee [59:1506(C)]
- (D) \$200.00 annual examination fee [59:1508(A)]
- (E) All fees are non-refundable unless the Act or these rules require otherwise.

(4) Rent-to-Own Businesses

- (A) \$100.00 application fee for license, except that for any application filed after June 30, the fee shall be \$50.00 [59:1953]
- (B) \$100.00 annual renewal fee [59:1953]
- (C) \$200.00 annual examination fee [59:1955(B)]
- (D) All fees are non-refundable unless the Act or these rules require otherwise.

(5) Health Spas

- (A) \$200.00 initial registration fee [59:2002(A)(4)]; this fee shall be applied without regard to the date of filing.
- (B) \$200.00 annual renewal fee [59:2002(A)(4)]
- (C) All fees are non-refundable unless the Act or these rules require otherwise.

(6) Credit Services Organizations

- (A) \$100.00 application fee for license [24:143(A)]; this fee shall be applied without regard to the date of filing.
- (B) \$100.00 investigation fee for license [24:143(A)]
- (C) \$100.00 annual renewal fee [24:143(A)]
- (D) \$200.00 annual examination fee [24:146(A)]
- (E) All fees are non-refundable unless the Act or these rules require otherwise.

(7) Precious Metals and Gem Dealers

- (A) \$50.00 application fee for license for dealers, \$25.00 application fee for license for each employee [59:1525(A) and (B)]; these fees shall be applied without regard to the date of filing.
- (B) \$50.00 investigation fee for license [59:1525(A)]
- (C) \$50.00 annual renewal fee for dealers, \$25.00 annual renewal fee for each employee [59:1526(A) and (B)]
- (D) All fees are non-refundable unless the Act or these rules require otherwise.

(8) Mortgage Brokers

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- (A) \$750.00 application fee for a mortgage broker license; this fee shall be applied without regard to the date of filing [59:2085(A)(2)]
 - (B) \$100.00 initial license fee for a mortgage broker license [59:2085(I)(1)]; this fee shall be applied without regard to the date of filing.
 - (C) \$100.00 annual renewal fee for a mortgage broker license [59:2085(I)(1)]
 - (D) \$25.00 late fee per day for a late application for renewal of a mortgage broker license received after December 31 and on or before January 31 [59:2085(D)]
 - (E) \$50.00 annual license fee for a branch office license [59:2085(I)(2)]; this fee shall be applied without regard to the number of licenses sought or the date of filing.
 - (F) \$50.00 inactive status fee for a mortgage broker license [59:2085(I)(3)]; this fee shall be paid for each year of inactive status [59:2085(E)]
 - (G) Reactivation fees for a mortgage broker license [59:2085(F)]
 - (i) If a mortgage broker license has been inactive for a licensing year, then the reactivation fee is \$100.00.
 - (ii) If a mortgage broker license reactivation application is filed on or before June 30 of an inactive license year, then the reactivation fee is \$100.00.
 - (iii) If a mortgage broker license reactivation application is filed after June 30 of an inactive license year, then the reactivation fee is \$50.00.
 - (H) \$10.00 change of address fee [59:2085(H) and (I)(4)]
 - (I) \$50.00 initial license fee for a mortgage loan originator license [59:2085(I)(5)]; this fee shall be applied without regard to the date of filing.
 - (J) \$50.00 annual renewal fee for a mortgage loan originator license [59:2085(I)(5)]
 - (K) \$10.00 change of sponsor fee [59:2085(I)(6)]
 - (L) \$150.00 license test fee; this fee is required for each test taken without regard to test results or the number of times that a person takes the test [59:2092(C)]
 - (M) Test handbook fee equal to the actual cost of producing and distributing the handbook [59:2092(E)]
 - (N) All fees are non-refundable unless the Act or these rules require otherwise.
- (9) Deferred Deposit Lenders
- (A) \$250.00 application fee for license; this fee is required of each applicant without regard to the number of licenses sought or the date of filing [59:3113(D)]
 - (B) \$500.00 investigation fee for license; this fee is required of each applicant without regard to the number of licenses sought or the date of filing [59:3113(D)]
 - (C) \$250.00 annual renewal fee; this fee is required of each applicant without regard to the number of licenses sought [59:3113(E)]
 - (D) For any examination under one-half hour, no fee. For any examination over one-half hour up to eight (8) hours, \$300.00. For any examination in excess of eight (8) hours, \$300.00 plus \$50.00 per examiner per hour for each full hour, or pro rata for each partial hour, over eight (8) hours. A \$50.00 late fee shall be imposed when the examination fee is not received within thirty (30) days of the invoice date. [59:3114(A)]
 - (E) \$25.00 late fee for any annual report received after May 1 [59:3114(F)]
 - (F) All fees are non-refundable and non-abatable unless the Act or these rules require otherwise. [59:3113(D)]
- (10) Other
- (A) \$0.25 fee per page for copies [51:24A.5(3)]
 - (B) \$1.00 fee per copied page for a certified copy [51:24A.5(3)]
 - (C) Reasonable search fee of the hourly rate of lowest paid employee capable of performing search when records are requested solely for commercial purpose or the request would clearly cause excessive disruption of the Department's essential functions [51:24A.5(3)]

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CHAPTER 55. MORTGAGE BROKERS

SUBCHAPTER 1. GENERAL PROVISIONS

160:55-1-1. Purpose

The rules in this chapter provide regulations relating to the licensure of mortgage brokers and mortgage loan originators.

160:55-1-1.1. Severability

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

160:55-1-2. Definitions

Except as otherwise specifically defined in this section, the definitions set forth in the Act are incorporated herein and made a part hereof. The following words or terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"**Act**" means the Oklahoma Mortgage Broker Licensure Act beginning at §2081 of Title 59 of the Oklahoma Statutes.

"**APA**" means the Administrative Procedures Act beginning at §250 of Title 75 of the Oklahoma Statutes.

"**Committee**" means the Mortgage Broker Advisory Committee.

"**Days**" mean calendar days. In computing any period of time for communications between a person and the Department or a court, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a day that the licensed location, the Department or the office of the court clerk is closed.

"**Department**" means the Oklahoma State Department of Consumer Credit.

"**Deputy Administrator**" means the Deputy Administrator of the Department.

"**Mortgage business**" means the trade that involves the making, negotiating or offering to make or negotiate any loan secured by a mortgage, deed of trust or any lien interest on residential real estate created with the consent of the owner of the real estate.

"**RESPA**" means the Real Estate Settlement Procedures Act of 1974 beginning at §2601 of Title 12 of the United States Code.

SUBCHAPTER 3. LICENSING

160:55-3-1.1. Licensure forms

(a) License application.

(1) The license application shall be completed by the person seeking a mortgage broker license or a mortgage loan originator license and shall include all fees, forms and exhibits requested.

(2) The Administrator may require any applicant to provide additional information. An application is not considered final until all requested information has been submitted and the applicant has passed a license test, if required. [59:2085(A)(1)(c), (A)(9) and (L)(4), and 2092(B)]

(3) The Administrator shall grant or deny a license application within thirty (30) days from final application unless the period is extended by written agreement between the applicant and the Administrator. [59:2085(C)]

(4) An application that is not reviewed for any failure on the part of the applicant shall be deemed to be a withdrawal of the application and not a denial. If any applicant pays for a license test, but does not take the license test, the license test fee shall be returned to the applicant. If an applicant for a mortgage broker license fails to comply with the application process, the initial license fee shall be returned to the applicant, but the Administrator shall retain the application fee.

(b) **License test.** The examination approved by the Administrator that is required to be taken and passed by applicants for mortgage broker licenses, unless waived by the Administrator. [59:2085(A)(1)(c) and (A)(9), and 2092(A) and (B)] The examination approved by the Administrator that is required to be taken and passed by applicants for mortgage loan originator licenses that do not have the required experience, unless waived by the Administrator. [59:2085(A)(9) and (L)(4), and 2092(A) and (B)]

(c) **Licenses.** No license is transferable or assignable. [59:2085(A)(7)] Expired licenses shall not be renewed; however, a new license may be issued if the applicant satisfies all of the licensing requirements of an initial license. [59:2085(D)]

(1) **Mortgage broker license.** The license, executed under the hand of the Administrator and delivered, is evidence of a person's authority to engage in the mortgage business within Oklahoma. The license shall be prominently displayed in an area of the principal place of business that is used or visited by a majority of the borrowers [59:2085(G)].

(2) **Mortgage loan originator license.** The license, executed under the hand of the Administrator and delivered, is evidence of an individual's authority to make, negotiate or offer to make or negotiate a mortgage loan for or on behalf of a mortgage broker.

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(3) **Branch office license.** The license, executed under the hand of the Administrator and delivered, is evidence of a location in addition to the principal place of business noted on the mortgage broker license where mortgage business may be transacted. Any branch office license shall be prominently displayed in an area of the branch office that is used or visited by a majority of the borrowers [59:2085(H)].

(d) **Renewal application.**

(1) The license renewal application shall be completed by persons previously issued a license and shall be submitted with all fees and postmarked on or before the first day of December each year, unless the person holds a three year license for which the renewal application with all fees shall be submitted and postmarked on or before the first day of December of the final year of validity. As a courtesy, the Department may send a notice of renewal to each person, but the failure to do so shall not relieve any person of the duty to renew timely or impair the authority of the Administrator against any person.

(2) If the license is not renewed by December 15, a delinquency notice shall be sent to the person. If the license is not renewed by December 31, the license shall be suspended. A suspended license may be renewed with a completed license renewal application submitted with all fees and postmarked on or before January 31. If the license is not renewed by January 31, the license shall expire. [59:2085(D)]

(e) **Inactive and reactivation applications.** In lieu of renewal, a mortgage broker may place its license on inactive status for the following license year by completing an inactive application and submitting the application with its license and fee postmarked on or before the first day of December. [59:2085(E)] If a mortgage broker applies for inactive status when the license is not eligible for inactive status, the Administrator shall notify the mortgage broker that the license is subject to the renewal requirements.

(1) At the end of the first inactive license year, the mortgage broker shall complete an inactive application or a reactivation application and submit it with the proper fee postmarked on or before the first day of December. [59:2085(E) and (F)] If a mortgage broker applies for inactive status when the license is not eligible for inactive status, the Administrator shall notify the mortgage broker that the license is subject to the reactivation requirements.

(2) If the mortgage broker license is on inactive status for two (2) consecutive years, then at the end of the second inactive license year, the mortgage broker shall complete a reactivation application and submit it with the fee postmarked on or before the first day of December. [59:2085(E) and (F)]

(3) If a mortgage broker license is not inactivated or reactivated by December 31, then the license shall expire. [59:2085(E)]

(4) During an inactive license year, the mortgage broker license may be reactivated for the remainder of the year by completing a reactivation application and submitting the application with the fee. [59:2085(F)]

160:55-3-1.2. Experience or educational requirement

(a) To apply for a mortgage broker license, an applicant shall provide satisfactory evidence of the required experience or graduation from an institution of higher education or a vocational school with a degree in a discipline that directly relates to the occupation of a mortgage broker. [59:2085(A)(1)(a) and (b)]

(b) To apply for a mortgage loan originator license, an applicant may provide satisfactory evidence of the required experience [59:2085(L)(4)].

(c) Satisfactory evidence for experience includes, but is not limited to, W-2 forms and 1099 forms.

(d) For purposes of this section, "applicant" means an individual; an owner of a sole proprietorship; the stockholders or three largest stockholders and the officers, directors and trustees of a corporation; the partners, principals, officers and directors of a partnership or limited liability company.

160:55-3-1.3. Active management requirement

An individual is in active management of the activities of a licensed person when the individual supervises the mortgage business operations on a full-time basis.

160:55-3-1.4. Mortgage brokers continuing Continuing education

(a) **Purpose.** The purpose of this section is to set forth the requirements for continuing education ~~which a mortgage broker must meet~~, and to set forth the requirements for approval by the Administrator of a proposed continuing education course.

(b) **Definitions.** The following words or terms, when used in this section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**CEC**" means continuing education credit.

(2) "**Certificate of course completion**" means a form acceptable to the Administrator and completed by the provider that signifies satisfactory completion of the approved course and reflects hours of credit earned.

(3) "**Credit hour**" means at least a fifty (50) minute classroom instructional session unless a correspondence or self-study course.

(4) "**Education verification form**" means a form acceptable to the Administrator and completed by the mortgage broker or mortgage loan originator that states under oath to compliance with the continuing education requirements.

(5) "**Provider**" means the Commission; a technology center school; a college or university; a private school; the Oklahoma Association of Mortgage Brokers, the National Association of Mortgage Brokers or any affiliate thereof; the Oklahoma Bar

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Association, American Bar Association or any affiliate thereof; or an education provider that provides approved continuing education courses ~~to mortgage brokers~~. [59:2093(B)]

(c) Continuing education requirements.

(1) Credit hours.

(A) All mortgage brokers shall complete sixteen (16) credit hours of continuing education before license renewal or reactivation. [59:2093(A)] Provided, however, continuing education shall not be required for the renewal of any mortgage loan originator license for 2007, and mortgage loan originators shall have from July 1, 2006, until December 31, 2007, to complete the continuing education hours for the renewal of their licenses for 2008. Courses taken in excess of the required hours shall not carry forward.

(B) A minimum of seven (7) of the sixteen (16) credit hours shall consist of:

(i) one (1) credit hour covering the Real Estate Settlement Procedures Act;

(ii) one (1) credit hour covering the Truth In Lending Act;

(iii) one (1) credit hour covering federal laws related to fair lending - the Equal Credit Opportunity Act, the Fair Housing Act and the Home Mortgage Disclosure Act; and

(iv) four (4) credit hours covering ethics. [59:2093(A)]

(C) Courses must be of a meaningful nature and shall not include items such as prospecting, motivation, sales techniques, psychology, recruiting, time management, phone etiquette, and subjects not relating to the ~~mortgage broker's~~ license. Courses conducted in conjunction with other meetings must have a separate continuing education course component; the method to monitor attendance must be stated and approved by the Administrator.

(2) Correspondence and video courses.

(A) **Correspondence courses.** A mortgage broker or mortgage loan originator who completes an approved course by correspondence and provides satisfactory proof of completion will receive credit for the number of hours assigned for the course.

(B) **Video courses.** In order for a mortgage broker or mortgage loan originator to receive credit for viewing an approved course presented by video, the mortgage broker or mortgage loan originator must view the video under the supervision of a contact person with the provider and swear by affidavit that the video was viewed in its entirety. The affidavit must also be signed by the supervising contact person.

(3) **Credit for instructors.** An instructor who is a mortgage broker or mortgage loan originator shall receive the same continuing education credit for presenting approved course materials as a mortgage broker or mortgage loan originator who attends an approved classroom instructional session.

(4) **Certificates of course completion required for license renewal or reactivation.** Each mortgage broker and mortgage loan originator shall attach an education verification form and certificates of course completion for the required number of credit hours to the renewal or reactivation application. [59:2093(A)]

(5) **Repeating courses.** A mortgage broker or mortgage loan originator may repeat a course before renewal, if the maximum credits designated for the course were not attained in the first attempt. By repeating the course, the mortgage broker or mortgage loan originator may not earn more than the maximum credits designated for the course. A mortgage broker or mortgage loan originator may repeat a course after two (2) license renewal dates have elapsed and receive the maximum credits designated for the course.

(6) **Exceptions.** The requirements for continuing education in this section shall not apply to:

(A) a mortgage broker whose license is on inactive status; or,

(B) a non-resident mortgage broker or mortgage loan originator who is licensed in a state having continuing education requirements and the mortgage broker or mortgage loan originator meets all the requirements of that state. The non-resident mortgage broker or mortgage loan originator shall be responsible for providing satisfactory proof of compliance with the other state's requirements. [59:2093(E)]

(7) **Extensions.** For good cause shown, the Administrator may grant an extension of time during which the continuing education requirements may be completed. The extension shall not exceed twelve (12) months. The extension will not alter the requirements or due date of the succeeding renewal. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the mortgage broker or mortgage loan originator and shall include details and any documentation to support the request. Each request must be received by the Administrator no less than thirty (30) days before renewal.

(d) Approval of continuing education courses.

(1) **Information required.** Each provider shall apply for approval of each course. All providers, including publicly funded educational institutions, shall provide:

(A) Name and address of the provider.

(B) Contact person and his or her address and telephone number(s).

(C) The location of the course, unless it is an individual study or correspondence course.

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- (D) The number of CEC hours requested for each course. Courses must consist of a minimum of one (1) credit hour.
- (E) Subject outlines which list the summarized subjects covered in each course and a copy of any course materials.
 - (i) If a classroom course, a timed outline including any breaks.
 - (ii) If a correspondence course, a copy of text or table of contents with page numbers.
- (F) The names and qualification of instructors. An instructor shall have one (1) of the following qualifications:
 - (i) Three (3) years of recent experience in the subject area being taught; or
 - (ii) A degree related to the subject area being taught; or
 - (iii) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.
- (2) **Application deadline for course approval.** At least thirty (30) days prior to the course date, the provider shall apply to the Administrator for course approval. The Administrator shall grant or deny approval in writing based upon information submitted regarding each course. The Administrator will assign the number of CEC hours awarded for an approved course. Each course approval shall be valid for a period of twelve (12) months. Course materials must be resubmitted at the time of expiration.
- (3) **Withheld or withdrawn approval.** The Administrator may withhold or withdraw approval for any course for non-compliance with any provision of this section. This withdrawal will not affect any CEC hours attained under the course previous to the withdrawal.
- (4) **List of approved courses.** A list of approved courses shall be available from the Administrator. [59:2093(C)]
- (5) **Certificate of Course Completion.** At the completion of each course, the provider shall provide each mortgage broker or mortgage loan originator with a "Certificate of Course Completion" form.
- (6) **List of mortgage brokers and mortgage loan originators completing course to Administrator.** At the completion of each course, the provider shall provide the Administrator a list of all mortgage brokers and mortgage loan originators who completed the course. This list shall reflect the ~~mortgage broker's~~ name and license number of each mortgage broker and mortgage loan originator.
- (7) **Course records.** Providers shall maintain course records for at least seven (7) years.

160:55-3-3. Investigations for licensure

A thorough investigation shall be conducted of each applicant for a mortgage broker license, and applicants shall provide such additional information as may be requested from the applicant for that purpose. In addition, the Administrator may consult outside sources, including law enforcement agencies, and may require the applicant's consent to release such other relevant information as the Administrator may deem necessary to determine the moral character, experience, background, honesty, truthfulness, integrity and competency of the applicant, any responsible individual designated by the applicant and any officer, director, shareholder or other interested party of the applicant [59:2085(A)(1) and (2)]. It shall be within the discretion of the Administrator to determine the fitness of an applicant, provided that such discretion is not arbitrary or capricious and is, or will be, applied uniformly to all similarly situated applicants.

160:55-3-3.1. License denials

- (a) **Denial notice.** The Administrator shall notify the applicant of the denial of a license application in writing stating the reasons for the denial. The notice shall be sent by certified mail with return receipt requested or be delivered in person. If an applicant for a mortgage broker license is denied a license, the initial license fee shall be returned to the applicant, but the Administrator shall retain the application fee.
- (b) **Hearing request.** The applicant may make a written request for a hearing on the application within thirty (30) days of receipt of the denial notice.
- (c) **Hearing notice.**
 - (1) If the applicant makes a timely request for a hearing, a hearing shall be held within sixty (60) days of receipt of the request. However, the applicant shall be given twenty (20) days notice of the hearing in writing.
 - (2) The notice shall:
 - (A) state the time, place and nature of the hearing;
 - (B) state the legal authority and jurisdiction for the hearing;
 - (C) refer to the statutory sections and rules involved; and
 - (D) state the matters asserted briefly and plainly [75:309(B)(1) - (4)].
- (d) **Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].
- (e) **Order.**
 - (1) The Administrator shall issue an order granting or denying the license application within sixty (60) days from the last day of the hearing unless the period is extended by written agreement between the applicant and the Administrator.
 - (2) The order shall:
 - (A) be in writing;

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- (B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;
- (C) state conclusions of law; and
- (D) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

160:55-3-4. Licensure periods

Any license issued during a year shall run only to December 31 of that year, except three year licenses shall run to December 31 of the third calendar year.

160:55-3-8. Change of control

- (a) At least thirty (30) days before any proposed change of control of any licensed mortgage broker, the mortgage broker shall notify the Administrator of the intent to change control, and the acquiring person shall apply for a mortgage broker license and branch office licenses, if any. The Administrator shall notify the mortgage broker and the acquiring person when the acquiring person's mortgage broker license application has been granted. After the mortgage broker surrenders its mortgage broker license and branch office licenses, if any, and transfers controlling interest, a mortgage broker license and branch office licenses, if any, shall be issued to the acquiring person. [59:2085(A)(7)]
- (b) If the change of control results in the closing of any locations, then the mortgage broker shall post an announcement on the front door listing the name, business telephone number and mailing and business addresses of the acquiring person. The announcement shall be posted before controlling interest is transferred and shall remain posted until the existing location closes. The mortgage broker shall certify to the Administrator the date the announcement was posted and shall attach a copy of the announcement.
- (c) For purposes of this section, "change of control" means a change of an individual owner, or a change of more than twenty percent (20%) in the power to vote outstanding shares of a licensed corporation, partnership, association or trust. [59:2085(A)(7)]

160:55-3-9. Ownership of more than one location

- (a) Any location, in addition to the principal place of business noted on the mortgage broker license, where the mortgage broker will transact mortgage business shall be licensed as a branch office [59:2085(H)].
- (b) For purposes of this section, "locations where mortgage business will be transacted" shall include any location at which:
 - (1) a mortgage loan application is provided, taken or completed in person, or
 - (2) making, negotiating or offering to make or negotiate a mortgage loan occurs.
- (c) For purposes of this section, the term "locations where mortgage business will be transacted" shall not include either:
 - (1) administrative offices at which only bookkeeping, billing or accounting duties are performed for separate mortgage business locations, or
 - (2) offices at which only independent contractors or their employees, or both, are located.

160:55-3-9.1. Moving or closing a location

- (a) At least thirty (30) days before the address of the principal place of business or a branch office is changed, the mortgage broker shall notify the Administrator in writing. The mortgage broker shall post an announcement on the front door listing the address of the new location. The announcement shall remain on the front door until the location changes. In the change notice, the mortgage broker shall certify to the Administrator the date the announcement was posted and shall attach a copy of the announcement and any license that needs to be amended along with a change of address fee. [59:2085(H)]
- (b) At least thirty (30) days before a location is to be closed, the mortgage broker shall notify the Administrator in writing. The mortgage broker shall post an announcement on the front door listing the business telephone number and mailing and business address of another location, if any. The announcement shall remain posted until the existing location closes. In the closing notice, the mortgage broker shall certify to the Administrator the date the announcement was posted and shall attach a copy of the announcement along with the license for the closing location.

160:55-3-10.1. Loss or change of licensed mortgage broker sponsor

- (a) When a mortgage broker cancels the sponsorship of a mortgage loan originator, the mortgage broker shall submit the mortgage loan originator's license to the Department within three (3) business days.
- (b) The Department shall return the license to the mortgage loan originator with the name of the new sponsoring mortgage broker after all requested forms, exhibits, information and fee have been submitted.
- (c) The Department's holding of the mortgage loan originator license does not change the licensure period.
- (d) The person remains subject to all licensing and renewal requirements for the mortgage loan originator license whether the person or the Department holds the license.

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SUBCHAPTER 5. ADVISORY COMMITTEE

160:55-5-1. Purpose

The rules in this subchapter provide regulations relating to the proper and efficient functioning of the Mortgage Broker Advisory Committee.

160:55-5-2. Responsibilities

(a) The Committee shall monitor the mortgage business in Oklahoma and shall recommend such policies or policy changes to the Commission deemed appropriate regarding the following subjects:

- (1) the soundness and vitality of the industry;
- (2) abuses or improper conduct in the industry;
- (3) the sufficient availability of consumer credit to the people of Oklahoma for mortgage loans; and
- (4) a proper balance of interests between consumers and mortgage brokers and mortgage loan originators [59:2090(A)].

(b) The Commission may assign to the Committee such topics for advice and recommendation regarding the mortgage business as the Commission may deem necessary from time to time, and shall set deadlines for the Committee to report back to the Commission with reports on its progress and advice [59:2090(A)].

(c) A recommendation under subsection (a) of this section or a report under subsection (b) of this section from the Committee shall be in writing and shall be placed on the next regular meeting agenda of the Commission.

(d) The Committee shall prepare licensing test forms for the Administrator's approval and the passing standard for the tests. It shall be within the discretion of the Administrator to approve the licensing test forms, provided that such approval shall not be unreasonably withheld when the content of the test forms covers the statutory topics. [59:2092(A)]

(e) The Administrator may also consult with, and seek the advice of, the Committee as the need may arise.

160:55-5-3. Meetings

(a) The meetings of the Committee shall be regularly held on the second Tuesday of January, April, July and October of each year. In the event of lack of quorum, the Chairman shall reschedule the meeting for another date convenient for all members of the Committee before the end of the second month after the scheduled meeting, so that the Committee shall meet its statutory requirement that meetings be held at least quarterly. The Committee shall also meet at other times deemed necessary at the call of the Chairman or by request of a majority of members of the Committee. The meetings are open to the public. [59:2090(C)]

(b) The Administrator or the Deputy Administrator shall routinely attend meetings of the Committee, and shall provide such records, as may be requested, to the Committee for the performance of its duties.

SUBCHAPTER 7. RECORDS

160:55-7-1. Records and changes

(a) **Records.** Each licensee's records shall be maintained in compliance with the Act and these rules.

(1) **Transaction journal.** As part of the books and records related to their mortgage business, each licensee shall maintain a transaction journal that discloses the consumer's full name, date of loan, loan account number, name of lender and address of lender.

(2) **Retention.** Mortgage brokers and mortgage loan originators shall preserve and make available such books and records related to their mortgage business for four (4) years from the date of the initial transaction between the person and each borrower, or for two (2) years from the date of the final entry into such records is made thereon, whichever is later. Trust account records shall be preserved and made available for at least three (3) years after the date of final entries therein [59:2087(D)]. Employee background investigation records shall be preserved and made available for at least two (2) years after employment is terminated [59:2085(A)(6)(b)]. The records shall be maintained for such time periods whether the person is currently licensed or previously licensed.

(3) **Location.** Upon licensing, mortgage brokers and mortgage loan originators shall either designate a location or locations in Oklahoma where records shall be maintained or agree in writing to provide copies of records kept at an out-of-state location to the Department upon demand, and the records shall not be moved from the designated location unless the Administrator has given written approval for another location.

(b) ~~Each person's records shall be maintained in compliance with the Act and these rules.~~ **Changes.** Each person shall keep current the information required for licensing by reporting any changes or additions to the information previously submitted to the Department within thirty (30) days of such change or addition unless the Act or these rules require otherwise.

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SUBCHAPTER 9. ENFORCEMENT

160:55-9-1. Investigative proceedings

(a) **Initiation.** Investigations and inquiries are originated upon request or complaint of the public or by the Administrator upon the Administrator's motion. Any person may apply to the Administrator to institute a proceeding in respect to any violation of law over which the Administrator has jurisdiction. The request or complaint shall be in writing, signed by the initiator and shall contain a statement setting forth the alleged violations of law and the name and address of the party or parties at issue in the complaint. No forms or formal procedures are required in making requests or complaints. The initiator is not regarded as a party since the Administrator acts only in the public interest. The Administrator shall not take action when the alleged violation of law is merely a matter of private controversy and does not tend to adversely affect the public.

(b) **Procedure.** The Administrator encourages voluntary cooperation in investigations. The Administrator may invoke any or all of the compulsory processes authorized by law, including subpoenas and depositions. The Administrator may issue a notice to grant access to, for examination and copying, records of any party being investigated, and may require a party to file a report or to submit answers in writing to specific questions relating to any matter under investigation. Inquiries and investigations are conducted by representatives designated and duly authorized to exercise and perform the duties of their office in accordance with the laws of Oklahoma and the regulations of the Administrator, including the administration of oaths and affirmations, in any matter under investigation by the Administrator. Any party under investigation, compelled to furnish information or documentary evidence, shall be advised of the purpose and scope of the investigation.

(c) **Confidentiality.** The information obtained in the course of any investigation shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state.

(d) **Noncompliance.** In case of failure to comply with the Administrator's investigative processes, the Administrator may initiate any authorized action, including acts for enforcement by the Administrator.

(e) **Violations.** If the investigation finds any violations of the Act or these rules, the Administrator may initiate any authorized action.

(f) **Informal disposition.** In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Administrator to afford parties who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, consent orders or defaults when it appears to the Administrator that such procedure fully safeguards the public interest. The Administrator reserves the right in all matters to withhold the privilege of an informal disposition. All stipulations, agreed settlements, consent orders or defaults shall be public records.

160:55-9-2. Individual proceedings

(a) **Allegations notice.** The Administrator shall notify the person of facts or conduct that warrant the intended action, and give the person an opportunity to show compliance with all lawful requirements for the retention of the license [75:314(C)(1)].

(b) **Violations.** Where the facts indicate that the person has not complied with all lawful requirements for the retention of the license, the Administrator may initiate any authorized action.

(c) **Informal disposition.** In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Administrator to afford persons who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, consent orders or defaults when it appears to the Administrator that such procedure fully safeguards the public interest. The Administrator reserves the right in all matters to withhold the privilege of an informal disposition. All stipulations, agreed settlements, consent orders or defaults shall be public records.

(d) **Hearing notice.**

(1) If the matter is to be set for hearing, the person shall be given twenty (20) days notice in writing.

(2) The notice shall:

- (A) state the time, place and nature of the hearing;
- (B) state the legal authority and jurisdiction for the hearing;
- (C) refer to the statutory sections and rules involved; and
- (D) state the matters asserted briefly and plainly [75:309(B)(1) - (4)].

(e) **Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

(f) **Standard of proof.** The standard of proof is clear-and-convincing evidence. Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established.

(g) **Order.**

(1) The Administrator shall issue an order within sixty (60) days from the last day of the hearing unless the period is extended by written agreement between the person and the Administrator.

(2) The order shall:

- (A) be in writing;

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(B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;

(C) state conclusions of law;

(D) state the effective date; and

(E) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

(h) **Impair.** A probation, suspension or revocation shall not impair or affect the obligation of any preexisting lawful contract between the person and any borrower.

160:55-9-3. License surrender

Any person may surrender any license by delivering it to the Administrator with written notice of its surrender. Such surrender shall not affect the liability of the person for acts committed before the surrender of the license. A surrender shall not impair or affect the obligation of any preexisting lawful contract between the person and any borrower.

160:55-9-4. License reinstatement

The Administrator may reinstate suspended licenses or issue new licenses to a person whose license or licenses have been revoked if the Administrator finds that the person meets the licensing requirements then in effect and if the Administrator finds the circumstances for which the license was suspended or revoked no longer exists.

160:55-9-5. Hearing procedure - emergency actions

(a) Hearing notice.

(1) If the public health, safety, or welfare imperatively requires emergency action, such action, including the suspension of a license instant or a cease and desist instant, may be ordered pending the final outcome of proceedings instituted by the Administrator [75:314(C)(2) and 314.1]. In such cases, the Administrator shall notify the party of such action by certified mail with return receipt requested or personal delivery, and shall include in such notice an order of hearing. The hearing shall be held within ten (10) days of the notice unless postponed by written agreement between the party and the Administrator.

(2) The notice shall:

(A) state the time, place and nature of the hearing;

(B) state the legal authority and jurisdiction for the hearing;

(C) refer to the statutory sections and rules involved; and

(D) state the matters asserted briefly and plainly [75:309(B)(1) - (4)].

(b) **Hearing.** All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

(c) **Standard of proof.** The standard of proof is clear-and-convincing evidence. Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established.

(d) Order.

(1) The Administrator shall issue an order within thirty (30) days from the last day of the hearing unless the period is extended by written agreement between the party and the Administrator.

(2) The order shall:

(A) be in writing;

(B) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;

(C) state conclusions of law;

(D) state the effective date; and

(E) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

160:55-9-6. Circumvention prohibited

Whenever a person has an administrative action taken against a license, the Administrator may deny the person's request to inactivate such license, to sell or transfer the accounts under such license or to take any other action to circumvent or negate the administrative action during the time of the action or during the pendency of the action if on appeal.

160:55-9-7. Review of an order

(a) Rehearing, reopening or reconsideration.

(1) Application.

(A) Any party aggrieved by a final order may apply for a rehearing, reopening or reconsideration within ten (10) days from the date of the order [75:317(A)].

(B) The application shall be in writing and assert a statutory ground for a rehearing, reopening or reconsideration.

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(C) The statutory grounds are:

- (i) newly discovered or newly available evidence, relevant to the issues;
- (ii) need for additional evidence adequately to develop the facts essential to proper decision;
- (iii) probable error committed by the Department in the proceeding or in the decision such as would be ground for reversal on judicial review of the order;

- (iv) need for further consideration of the issues and the evidence in the public interest; or
- (v) a showing that issues not previously considered ought to be examined in order properly to dispose of the matter [75:317(A)(1) - (5)].

(2) **Application order.**

(A) The Administrator shall issue an order granting or denying the rehearing, reopening or reconsideration within thirty (30) days from receipt of the application unless the period is extended by written agreement between the party and the Administrator.

(B) If the application is granted, the order shall set forth the grounds that justify it [75:317(B)].

(3) **Hearing.**

(A) If the rehearing, reopening or reconsideration is granted, the hearing shall be limited to the ground or grounds upon which it was ordered [75:317(D)].

(B) All parties shall be afforded the opportunity to respond and present evidence and argument on all points at issue [75:309(C)], and shall have the right to counsel [75:310(5)].

(4) **Rehearing order.**

(A) The Administrator shall issue an order from the rehearing, reopening or reconsideration within sixty (60) days from the last day of the hearing unless the period is extended by written agreement between the party and the Administrator.

(B) The order shall:

- (i) be in writing;
- (ii) state findings of fact that shall be limited to the evidence from the hearing unless the parties agree otherwise on the record;
- (iii) state conclusions of law;
- (iv) state the effective date; and
- (v) be delivered in person or by certified mail with return receipt requested [75:309(H) and 312].

(5) **Tolling.** The period for judicial review shall run from the day the party is notified of the final disposition of the application if the application was filed timely [75:317(E)].

(6) **Prerequisite.** An application shall not be a prerequisite to secure judicial review [75:318(A)(3)].

(b) **District Court.**

(1) **Petition.**

(A) Any party aggrieved by a final order may file a petition in the district court of the party's resident county or the situs county of the property interest within thirty (30) days from the day the party is notified of the order [75:318(B)(2)].

(B) The petition shall be served upon the Department and all other parties of record, and proof of service shall be filed in the court within ten (10) days after the petition is filed [75:318(C)].

(2) **Stay.** The filing of a proceeding for review shall not automatically stay the final order, but the Department may stay the order or the court may or shall impose a stay in accordance with the APA [75:319(1)].

(3) **Record.** The Department shall transmit the record of its proceeding to the court within thirty (30) days after the service of the petition unless the court has granted an extension [75:320].

(4) **Review scope.** The review shall be confined to the record and done by the court without a jury [75:321].

(5) **Court order.** The court may affirm, set aside, modify, reverse or remand the agency order in accordance with the APA [75:322].

(c) **Supreme Court.** Any party aggrieved by a final judgment of a district court may appeal to the Supreme Court in the manner and time provided in civil actions [75:323].

160:55-9-8. Civil and criminal actions

This chapter shall not be interpreted as limiting the right of the Administrator to seek civil remedies or make criminal referrals for any violation of the provisions of the Act or these rules.