

From: licensing@sml.state.tx.us
To: Mortgage Brokers
Loan Officers
Mortgage Bankers
Continuing Education Providers
Financial Services Companies
CC: TDSML Listserv
Subject: Loss Mitigation Providers

There is much discussion among the state regulators regarding the necessity for licensure of loss mitigation providers, loan modification consultants, or foreclosure consultants (herein "loss mitigation providers"). Fortunately there is no ambiguity in Texas: any activity that meets the definition of a mortgage loan as defined in the Mortgage Broker License Act Regulation, 7 Texas Administrative Code, Chapter 80, does require a license unless exempt under the Mortgage Broker License Act, *Finance Code* Chapter 156.202.

- 80.2(5) "Mortgage Loan" means any indebtedness secured by a lien against, or security interest in, one-to-four family residential real property when the property is intended to be occupied for residential purposes whether or not the property is acquired for investment purposes or acquired for owner occupancy. It includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a one-to-four family residence, but is used for a commercial purpose such as a professional office, beauty salon, or other non-residential use, and is not used as a residence.

It is not the intent of the department to stop the valuable work loss mitigation providers are doing during this period of financial uncertainty. If a loss mitigation provider voluntarily comes forward to apply for licensure, the department will work with the provider by issuing a provisional license so that the provider may continue to conduct business while meeting the educational and examination requirements of the license. The provider should contact the Division of Licensing at licensing@sml.state.tx.us for details.

Douglas B. Foster
Commissioner