



# TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

Douglas B. Foster  
Commissioner

## NOTICE FROM THE COMMISSIONER

### **ENTITY LICENSING GUIDANCE FOR MORTGAGE BROKERS**

Effective September 1, 2007, a corporation, limited liability company, or limited partnership may not act as a mortgage broker unless the entity obtains a mortgage broker license, pursuant to Section 156.204(b) of the Texas Finance Code as amended by HB 2783. The result of this amendment was to require that any corporation, limited liability company, or limited partnership operating in mortgage origination must obtain an entity license with our department. Sole proprietors and general partnerships are exempt from entity mortgage broker licensing. Pursuant to Section 156.303(a)(8) of the Finance Code, the commissioner may order disciplinary action against a licensed mortgage broker when it has been determined that the broker paid compensation to a person who is not licensed for acts for which a license is required. The term "person" is defined by Section 311.005(2) of the Government Code to include corporations or other legal entities. Therefore, the payment of commissions to companies not licensed by our department constitutes offenses subject to disciplinary action by the commissioner. Loan officers will no longer be allowed to have their own companies for loan origination activities, including the receipt of commissions. As a result, brokers may pay loan commissions to only licensed individuals or licensed entities.

The department's ongoing monitoring system for compliance with the entity licensing requirement is being accomplished at three simultaneous levels: 1) an overall review of all outstanding licenses currently being conducted by the licensing department; 2) a review of all mortgage broker and loan officer licenses at the time of renewal by the licensing department; and 3) a review by the mortgage broker examination team during all mortgage broker audits. The review of entity licensing during broker audits was initiated in January 2008, allowing brokers several months to make the necessary transitions to comply with the new requirement. Enforcement of the entity licensing requirement is being applied equally to all mortgage brokers. Those brokers operating unlicensed entities will be issued a Notice of Violation and Order to Affirmative Action and Pay Administrative Penalty of \$175.00 each. Failure to comply with the Order will result in suspension of the mortgage broker license.

Issued: August 14, 2008