



# TEXAS DEPARTMENT OF SAVINGS & MORTGAGE LENDING

## NOTICE FROM THE COMMISSIONER

### “Dual Holders” – Mortgage Broker/Loan Officer License AND Mortgage Banker Registrant

Several mortgage bankers have registered their companies under the Mortgage Banker Registration Act (MBRA) as well as the individuals involved in those companies choosing to retain or obtain their mortgage broker/loan officer licenses. For varying reasons, many have chosen to be licensed whether they are required to be or not. Even exempt persons in some cases choose to maintain a license for credibility, professional reasons, etc. There is no prohibition of this “dual holder” distinction, but there are interesting observations that we have encountered.

**There is a misconception by many dual holders that if they are in fact employed by a registered mortgage banker AND hold a broker/LO license, they do not have to comply with broker/LO rules and regulations. THIS IS INCORRECT!**

Any licensee will be held fully accountable for compliance with all rules and regulations in connection with the Mortgage Broker License Act (MBLAct), whether or not they are employed by a mortgage banker. They are ALSO subject to the MBRA if they are employed by a registered mortgage banker.

We are well into efforts to identify and enforce non-compliant advertising. In some cases, we find a dual holder who attempts to refer to the Mortgage Banker exemption under the MBLAct, or simply states that he/she is employed by a registered mortgage banker in order to take the position they are not subject to the MBLAct. Allowing “dual holder” status does not infer a *choice* of laws available under which one may be held accountable for compliance. **If a person holds a license, he/she will be expected to comply with, be subject to and be held fully accountable for all rules and regulations relating to the MBLAct (as well as the MBRA, if registered) whether they are exempt, required to be licensed or not.** By voluntarily electing to be licensed (if qualified), those who would ordinarily be exempt subject themselves to the MBLAct, the rules and regulations.

If this is not a desirable position, one must either place the license on “inactive” status or surrender the license to, and notify, the TSLD, or un-register as a mortgage banker. The other alternative is to choose to be accountable for compliance with both the MBLAct and the MBRA.

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