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TITLE 7. BANKING AND SECURITIES

**PART 4. DEPARTMENT OF SAVINGS
AND MORTGAGE LENDING**

**CHAPTER 79. RESIDENTIAL
MORTGAGE LOAN SERVICERS**

SUBCHAPTER A. REGISTRATION

7 TAC §79.1, §79.2

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), adopts amendments to existing rules at Title 7, Texas Administrative Code (TAC), Part 4, Chapter 79, Subchapter A, §79.1 and §79.2, without changes to the text published in the September 4, 2020, issue of the *Texas Register* (45 TexReg 6197). The rules will not be republished.

Explanation of and Justification for the Rules

The rules under 7 TAC Chapter 79 implement Finance Code Chapter 158, Residential Mortgage Loan Servicers. The rule amendments were identified during the department's periodic review of Chapter 79, conducted pursuant to Government Code §2001.039. The rule amendments make changes to modernize and update the rules including: adding and replacing existing language to improve clarity and readability; removing unnecessary provisions; updating terminology; and eliminating a form published by rule.

Summary of Public Comments

Publication of the department's proposal to amend 7 TAC §79.1 and §79.2 recited a deadline of 30 days to receive public comments, or October 4, 2020. A public hearing in accordance with Government Code §2001.029 was not required. No public comments were received.

Statutory Authority

The rule amendments are adopted under the authority of Finance Code §158.003 which authorizes the commission to adopt rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158.

Adoption of the rule amendments affects the statutes contained in Finance Code Chapter 158.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on December 18, 2020.

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Department of Savings and Mortgage Lending

Effective date: January 7, 2021

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For further information, please call: (512)
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§79.1. Definitions.

As used in this chapter, and in the Department's administration and enforcement of Finance Code, Chapter 158, the following terms have the meanings indicated:

(1) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code, Chapter 13.

(2) "Commissioner's designee" means an employee of the Department performing his or her assigned duties or such other person as the Commissioner may designate in writing. A Commissioner's designee is deemed to be the Commissioner's authorized "personnel or representative" as such term is used in the Act.

(3) (No change.)

(4) "Nationwide Mortgage Licensing System and Registry" or "NMLS" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of state residential mortgage loan originators [has the meaning assigned by Finance Code §180.002(12)].

(5) "Person" has the meaning assigned by Tex. Fin. Code §158.002 [means an individual, corporation, company, limited liability company, partnership or association].

(6) "The Act" [The "Act"] means the Residential Mortgage Loan Servicer Registration Act, as provided by Tex. Fin. Code §158.001 [Finance Code, Chapter 158].

§79.2. Required Disclosure.

(a) Residential mortgage loan servicer registrants must include a written disclosure of the Department's regulatory oversight on all correspondence provided to the borrower, including all periodic statements. The disclosure must be in the current form prescribed by the Department and published on its website [For the servicing of residential mortgage loans on real estate located in Texas, pursuant to Texas Finance Code §158.101 a registrant shall provide to the borrower of each residential mortgage loan the disclosure contained in the following figure not later than the 30th day after the registrant begins servicing the loan].

(b) The requirements of this section apply only to residential mortgage loan registrants servicing residential mortgage loans secured by real estate located in Texas. Residential mortgage loan servicer registrants servicing mortgage loans secured by real estate not located in Texas must not include the written disclosure referenced by this section. [In order to let borrowers know how to file complaints with the Department, Residential Mortgage Loan Servicer registrants servicing residential mortgage loans on real estate located in Texas, must include the disclosure contained in the following figure in all correspondence provided to the borrowers. This written notice shall not be provided regarding the servicing of residential mortgage loans on real estate

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~~which is not located in Texas. Registrants servicing residential mortgage loans on real estate located in Texas, shall also post the disclosure in the following figure on their website, with a statement to reflect that such disclosure notice only applies to the residential mortgage loans on real estate located in Texas:~~

[~~Figure: 7 TAC §79.2(b)~~]