

**Title 7. Banking and Securities
Part 4. Department of Savings and
Mortgage Lending
Chapter 61. Hearings
7 TAC § 61.1**

The Finance Commission of Texas (the commission), on behalf of the Department of Savings and Mortgage Lending (the department), proposes an amendment to 7 TAC § 61.1 concerning hearings. The amendment is proposed to provide consistent procedures for persons to complain about conduct of entities regulated by the department. The amendment is proposed in response to a recommendation of the Sunset Advisory Commission that the department update its complaint processing provisions in line with the Sunset Advisory Commission's Licensing and Regulation Model guidelines (Sunset Model).

The Sunset Model is intended as a guide to assist in evaluating occupational licensing and regulatory agencies to see if they are efficient, effective, fair, and accountable in their mission to protect the public. Complaint filing, processing, and recordkeeping are topics covered in the Sunset Model. The proposed amendments implement the applicable recommendations contained in the Sunset Model.

Caroline C. Jones, the Department of Savings and Mortgage Lending Commissioner, has determined that for the first five-year period the proposed rules are in effect, there will be no fiscal implications for state government or for local government as a result of enforcing or administering the rule.

Commissioner Jones also has determined that, for each year of the first five years the rules as proposed are in effect, the public

benefit anticipated as a result of enforcing the rules is that complainants will have a clear, consistent process to follow and an understanding of timeframes for complaint processing and resolution.

For each year of the first five years that the rules will be in effect, there will be no economic costs to persons required to comply with the rule as proposed.

For each year of the first five years that the rules will be in effect, the rules will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect this state's economy.

The rules create new regulations concerning complaint handling to conform to recommendations from the Sunset Advisory Commission.

There will be no adverse economic effect on small businesses, micro-businesses, or rural communities. There will be no difference in the cost of compliance for these entities.

To be considered, comments on the proposed amendments must be submitted in writing to Devyn F. Wills, Associate General Counsel, Department of Savings and Mortgage Lending, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705

or by email to smlinfo@sml.texas.gov within 30 days of publication in the *Texas Register*.

The amendments are proposed under Government Code § 2001.004, which provides the authority to adopt rules of practice stating the nature and requirements of all available formal and informal procedures, Finance Code § 11.307, which provides that the finance commission shall adopt rules applicable to each entity regulated by the department relating to consumer complaints, and Finance Code §§ 13.007 and 13.011, which provide that the savings and mortgage lending commissioner shall supervise and regulate the organization, operation, and liquidations of state savings associations and prepare information concerning the department's regulatory functions and consumer complaint procedures.

Other statutes affected by the proposed amendments are found in Finance Code Title 3, Subtitle B, and also Finance Code Chapter 13.

§ 61.1. Hearings Officer

Chapter 11 of the Texas Finance Code, provides that the Finance Commission may employ a hearings officer, who for purposes of Texas Government Code, § 2003.021, is an employee of the Department of Savings and Mortgage Lending, Texas Department of Banking and the Office of the Consumer Credit Commissioner. As determined by the Commissioner, the [The] Finance Commission hearings officer or an Administrative Law Judge at the State Office of Administrative Hearings (SOAH) may conduct hearings under provisions of the Act.

Certification

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Devyn F. Wills
Associate General Counsel
Department of Savings and Mortgage
Lending