

**Title 7. Banking and Securities
Part 4. Department of Savings and
Mortgage Lending
Chapter 64 Books, Records, Accounting
Practices, Financial Statements, Reserves,
Net Worth, Examinations, [Consumer]
Complaints
7 TAC § 64.10**

The Finance Commission of Texas (the commission), on behalf of the Department of Savings and Mortgage Lending (the department), proposes an amendment to the name of Chapter 64, and an amendment to the name of § 64.10 concerning complaints. The amendments are proposed to provide clarification concerning consistent procedures for persons to complain about conduct of entities regulated by the department. The amendments are 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 78705-4294 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.

**§64.10. Savings and Loan Association
[Consumer] Complaint Notices
[Procedures]**

(a) Definitions

(1) "Privacy notice" means any notice which a savings and loan association provides to consumers regarding the association's privacy practices, regardless of whether it is required by a specific state or

federal law to provide such notice or provided to consumers voluntarily.

(2) "Required notice" means a notice in a form set forth or provided for in subsection (b)(1) of this section.

(b) Notice of how to file complaints

(1) In order to let its consumers know how to file complaints, savings and loan associations must use the following notice: The (name of savings and loan association) is chartered under the laws of the State of Texas and by state law is subject to regulatory oversight by the Department of Savings and Mortgage Lending. Any consumer wishing to file a complaint against the (name of savings and loan association) should contact the Department of Savings and Mortgage Lending through one of the means indicated below: In person or by U.S. Mail at 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, Telephone No: (877) 276-5550, Fax No: (512) 936-2003, or via electronic submission on the Department's website at http://www.sml.texas.gov/consumerinformation/tdsml_consumer_complaints.html.

(2) A required notice must be included in each privacy notice provided to consumers.

(3) A savings and loan association must provide consumers with the required notice in compliance with paragraph (1) of this section whether or not the savings and loan association is required by any state or federal law to provide privacy notices to its consumers.

(4) The following measures are deemed to be appropriate steps to give the required notice:

(A) In each area where a savings and loan association conducts business with consumers in person, the required notice, in the form specified in paragraph (1) of this section, must be conspicuously posted. A notice is deemed to be conspicuously posted if a customer with 20/20 vision can read it from the place where he or she would typically conduct business at that location or if it is included on a bulletin board, in plain view, on which all required notices to the general public (such as equal housing posters, licenses, Community Reinvestment Act notices, etc.) are posted.

(B) At a minimum, the savings and loan association must provide the required notice when the customer relationship is established.

(C) If a savings and loan association maintains a web site, the required notice must be included in a screen which the consumer must view whenever the site is accessed.

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