



DEPARTMENT of
SAVINGS & MORTGAGE LENDING
Caroline C. Jones, Commissioner

NOTICE OF PRECOMMENT DRAFT

**SML Amendments to 7 TAC §79.1 and §79.2
April 30, 2020 Precomment Draft**

Please take notice that, on behalf of the Finance Commission of Texas (the "Commission"), the Department of Savings and Mortgage Lending (SML or the Department) is considering amendments to 7 Texas Administrative Code (TAC), Chapter 79, Subchapter A, §79.1 and §79.2. The amendments were identified during the Department's periodic review of Chapter 79, conducted pursuant to Government Code, §2001.039.

The Department issues this notice to solicit informal written comments to the rule amendments being considered, prior to potential consideration of the amendments by the Finance Commission. The Department will accept informal written precomments until 5:00 p.m. on May 25, 2020. The Department tentatively plans to present these rules for consideration by the Finance Commission at its June 19, 2020 meeting.

Background and Purpose

The rules under 7 TAC Chapter 79 implement Finance Code, Chapter 158, the Residential Mortgage Loan Servicer Registration Act.

- *Modernization and Update Changes.* The amendments, if adopted, would make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; replacing existing language with gender neutral language; removing unnecessary or duplicative provisions; and updating terminology. The amendments would also remove the graphic and form embedded in §79.2 concerning the form of the disclosure required of residential mortgage loan servicer registrants and, instead, require registrants to use the form published by the Department on its website for such purpose.

The Department invites stakeholders and other interested persons to comment on the rule amendments being considered. In particular, the Department would like to know what costs regulated persons will experience if the rule amendments are adopted, and what the potential benefits are to the public of the rule amendments.

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Submission of Informal Precomments

Informal precomments regarding the Department's April 30, 2020 draft may be submitted by mail to Iain A. Berry, Associate General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294, or by email to rules.comments@sml.texas.gov.

Informal precomments regarding the Department's April 30, 2020 draft rule amendments must be received by 5:00 p.m. on May 25, 2020.

<rule>

Title 7. Banking and Securities

Part 4. Department of Savings and Mortgage Lending

Chapter 79. Residential Mortgage Loan Servicers

Subchapter A. Registration

§79.1. Definitions

As used in this chapter, and in the Department's administration and enforcement of Chapter 158 of the Finance Code, 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 their [~~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" 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~~].

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(6) "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 shall 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 loan secured by real estate not located in Texas shall not include the written disclosure referenced by this rule. [~~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 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:~~

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