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**Notice of Precomment Draft & Online Webinar  
Home Equity Amendments: “Business Day” Definition  
January 12, 2022 at 2:00 p.m.**

The Joint Financial Regulatory Agencies (Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department) will hold an online webinar on January 12, 2022, at 2:00 p.m.

During the webinar, the agencies will discuss the January 5 precomment draft of amendments to 7 Tex. Admin. Code § 153.1, relating to the definition of “business day” and technical changes. The agencies intend to present these amendments for proposal at the Finance Commission’s February 18 meeting and the Credit Union Commission’s March 11 meeting.

**Summary of Amendments**

The January 5 precomment draft includes amendments to the definition of “business day” in 7 Tex. Admin. Code § 153.1(2). The amendments would add Juneteenth to the list of public holidays that are not considered business days, and would include an additional definition of “business day” to ensure consistency between disclosure timing requirements under state and federal law.

Specifically, the draft amendments would add the following definitions of “business day”:

- For purposes of the preclosing disclosure requirement in Section 153.13 (and in Article XVI, Section 50(a)(6)(M)(ii) of the Texas Constitution), the amendments would explain that a business day is all calendar days except Sundays and legal public holidays. This is similar to the current “business day” definition but adds Juneteenth National Independence Day, in accordance with June 2021 amendments to federal law that added Juneteenth as a legal public holiday.
- For purposes of the refinance disclosure requirement in Section 153.45 (and in Article XVI, Section 50(f)(D) of the Texas Constitution), the amendments would explain that a business day is a day on which the lender’s offices are open to the public for carrying on substantially all of its business functions. This definition and the previous definition are similar to the two definitions of “business day” used in Regulation Z, 12 C.F.R. § 1026.2(a)(6). This change would help ensure that in connection with a refinance of a home equity loan to a non-home-equity loan, a lender may send the refinance disclosure required under state law on the same date that it sends the loan estimate required by Regulation Z, 12 C.F.R. § 1026.19(e). This change responds to an informal comment that the agencies received from an industry attorney in August 2021, recommending consistency with Regulation Z for purposes of the refinance disclosure.
- For purposes of the right of rescission described in Section 153.25, the amendments would explain that “business day” has the meaning under Regulation Z that applies for purposes of rescission.

The amendments also include technical changes to ensure consistent capitalization in Section 153.1, based on input from staff of the *Texas Register*.

## **Questions for Stakeholders**

The agencies invite all stakeholders to provide input on the January 5 precomment draft of amendments. Stakeholders may provide input verbally at the stakeholder meeting, in writing through informal precomments, or both. In particular, the agencies invite responses to the following questions:

- 1) Do stakeholders believe that the draft amendments are appropriate and consistent with Texas Constitution, Article XVI, Section 50?
- 2) What textual arguments favor or disfavor the draft amendments? How do stakeholders interpret and understand the term “business day” in the context of mortgage loan disclosures? Does the term have one or more technical meanings? Does the term’s meaning depend on the context and the type of disclosure? Does the term’s meaning correspond to the two definitions provided in Regulation Z, 12 C.F.R. § 1026.2(a)(6)?
- 3) What policy arguments favor or disfavor the draft amendments? What costs and benefits will stakeholders experience if the draft amendments are adopted? Would the new definition of “business day” at Section 153.1(2)(B) provide lenders with more time to provide the refinance disclosure if the lender’s office is closed due to an emergency (such as a hurricane or pandemic)?
- 4) Would a different approach be appropriate for defining “business day”? For example, should the commissions replace the list of legal public holidays with a reference to 5 U.S.C. § 6103(a)?
- 5) Do stakeholders recommend changes to the draft amendments? If so, what alternative text would stakeholders recommend? What constitutional provisions are being interpreted under the recommendation, and what is the legal basis for the recommendation? How would the recommendation help lenders and borrowers?

## **Participating in Webinar**

Stakeholders are invited to listen and participate in the online webinar. Please follow the instructions available at: <https://attendee.gotowebinar.com/register/4377779633428329488>

## **Submitting Informal Precomments**

Informal precomments on the draft amendments may be submitted by email to [rule.comments@occc.texas.gov](mailto:rule.comments@occc.texas.gov), or in writing to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Blvd., Austin, Texas 78705.

***Informal precomments on the January 5 precomment draft must be received by 5:00 p.m. on January 19, 2022.***

**Joint Financial Regulatory Agencies**  
**Home Equity Amendments: "Business Day" Definition**  
**1/5/2022 Precomment Draft**

*Title 7, Texas Administrative Code*

*Part 8. Joint Financial Regulatory Agencies*

*Chapter 153. Home Equity Lending*

*§153.1. Definitions*

Any reference to Section 50 in this interpretation refers to Article XVI, Texas Constitution, unless otherwise noted. These words and terms have the following meanings when used in this chapter, unless the context indicates otherwise:

(1) Balloon--~~An~~ [an] installment that is more than an amount equal to twice the average of all installments scheduled before that installment.

(2) Business day [~~Day--All calendar days except Sundays and these federal legal public holidays: New Year's Day, the Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day~~].

(A) As used in Section 50(a)(6)(M)(ii) and §153.13 of this title (relating to Preclosing Disclosures: Section 50(a)(6)(M)(ii)), "business day" means all calendar days except Sundays and the following legal public holidays: New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other legal public holiday specified in 5 U.S.C. § 6103(a).

(B) As used in Section 50(f)(D) and §153.45 of this title (relating to Refinance of an Equity Loan: Section 50(f)), "business day" means a day on which the lender's offices are open to the public for carrying on substantially all of its business functions. Activities that indicate that the lender is open for substantially all of its business functions include the availability of personnel to make loan disbursements, to open new accounts, and to handle loan inquiries. Activities that indicate that the lender is not open for substantially all of its business functions include a bank's having its customer-service windows open only for limited purposes such as deposits and withdrawals, bill paying, and related services.

(C) As used in §153.25 of this title (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), "business day" has the meaning provided by Regulation Z, 12 C.F.R. §1026.2(a)(6) that applies for purposes of rescission.

(3) Closed or closing--~~The~~ [the] date when each owner and the spouse of each owner signs the equity loan agreement or the act of signing the equity loan agreement by each owner and the spouse of each owner.

(4) Consumer disclosure--~~The [Disclosure—the]~~ written notice contained in Section 50(g) that must be provided to the owner at least 12 days before the date the extension of credit is made.

(5) Cross-default provision--A [a] provision in a loan agreement that puts the borrower in default if the borrower defaults on another obligation.

(6) Date the extension of credit is made--The [the] date on which the closing of the equity loan occurs.

(7) E-Sign Act--The [the] federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§7001-7006.

(8) Equity loan--An extension of credit as defined and authorized under the provisions of Section 50(a)(6).

(9) Equity loan agreement--The [the] documents evidencing the agreement between the parties of an equity loan.

(10) Fair market value--The [the] fair market value of the homestead as determined on the date that the loan is closed.

(11) Force-placed insurance--Insurance [insurance] purchased by the lender on the homestead when required insurance on the homestead is not maintained in accordance with the equity loan agreement.

(12) Interest--As used in Section 50(a)(6)(E), "interest" means the amount determined by multiplying the loan principal by the interest rate over a period of time.

(13) Lockout provision--A [a] provision in a loan agreement that prohibits a borrower from paying the loan early.

(14) Owner--A person who has the right to possess, use, and convey, individually or with the joinder of another person, all or part of the homestead.

(15) Preclosing disclosure--The written itemized disclosure required by Section 50(a)(6)(M)(ii).

(16) Two percent limitation--The [the] limitation on fees in Section 50(a)(6)(E).

(17) UETA--The [the] Texas Uniform Electronic Transactions Act, Texas Business & Commerce Code, Chapter 322.