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To: Clients and Friends

From: David F. Dulock

Subject: Texas Loan Status Rules and Forms Amended Effective May 1, 2020

In the November 1, 2019, issue of the *Texas Register* (44 TexReg 6524, 6527 [click here](#)) the Finance Commission of Texas adopted amendments to the Texas Administrative Code rules in 7 TAC §§80.201 and 81.201 concerning the usage of the conditional pre-qualification and conditional loan approval forms (herein “loan status forms”) attached to §§80.201 and 81.201 as Forms A and B. The Finance Commission of Texas also amended the texts of these loan status forms.

These adopted amendments to §§80.201 and 81.201 and their respective loan status forms will not take effect until May 1, 2020.

An important amendment to §§80.201(a) and (b) and 81.201(a) and (b) is the language that there is no requirement to issue the appropriate loan status form. In response to a public comment that this language “could lead to confusion regarding voluntary usage of the forms,” the Finance Commission of Texas in its preamble to the final rules states, “that language in such paragraphs *as existing and adopted* convey that issuance of the forms is not mandatory, but rather, *when written confirmation is provided*, the substance in the loan status forms should be conveyed to an applicant or prospective applicant.” *Texas Register*, pages 6524 and 6527 (emphasis added).

What this means is §§80.201(a) and (b) and 81.201(a) and (b) did not and, as amended, do not require written notification of conditional prequalification or conditional approval of a loan, but when such written notification is given, it must be by using the appropriate loan status form or an alternate form that includes all of the information found on the appropriate loan status form.

Rule §80.201 and its Forms A and B are for use by Texas licensed residential mortgage loan companies and their licensed residential mortgage loan originators. Rule §81.201 and its Forms A and B are for use by Texas registered residential mortgage bankers and their licensed residential mortgage loan originators.

For your information and use the amended rules and loan status forms are attached to this memorandum as: Exhibit 1 (§80.201(a) and (b)); Exhibit 2 (§80.201(a) Form A, Conditional Pre-Qualification Letter); Exhibit 3 (§80.201(b) Form B, Conditional Approval Letter); Exhibit 4 (§81.201(a) and (b)); Exhibit 5 (§81.201(a) Form A, Conditional Pre-Qualification Letter); and Exhibit 6 (§81.201(b) Form B, Conditional Approval Letter).

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Exhibit 1

Rule §80.201 Loan Status Forms

(a) Except as otherwise provided by subsection (c) of this section, when provided to a mortgage applicant or prospective mortgage applicant, written confirmation of conditional pre-qualification shall include the information in Form A, Figure: 7 TAC§80.201(a). This information can be provided by utilizing Form A or an alternate form that includes all of the information found on Form A. There is no requirement to issue a written confirmation of conditional pre-qualification. Form A or an alternate form may be modified by adding any of the following as needed:

[Figure 7 TAC §80.201\(a\)](#)

- (1) Any additional aspects of the loan as long as not misleading;
- (2) Any additional items that the originator has reviewed in determining conditional qualifications; or
- (3) Any additional terms, conditions, and requirements.

(b) When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan approval on the basis of credit worthiness, but not on the basis of collateral, shall include the information in Form B, Figure: 7 TAC§ 80.201(b). This information can be provided by utilizing Form B or an alternate form that includes all of the information found on Form B. There is no requirement to issue a written notification of conditional loan approval. Form B or an alternate form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional loan approval should not be issued unless the company or originator has verified that, absent any material changes prior to closing, the mortgage applicant or prospective mortgage applicant has satisfied all loan requirements related to credit, income, assets, and debts. Verification may be conducted manually or by electronic means.

[Figure 7 TAC §80.201\(b\)](#)

(c) Subsection (a) of this section does not apply to "firm offers of credit," as that term is defined in 15 U.S.C. §1681a (1).

Exhibit 2

Figure 7 TAC §80.201(a)

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

Prospective Applicant(s)/ Applicant(s):

Mortgage Company:

NMLS ID #:

Loan Details

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

Mortgage company ___ has ___ have not reviewed the prospective applicant's / applicant's credit report and credit_score

The prospective applicant(s) / applicant(s) has provided the mortgage company with the following information:

Income ___ Yes ___ No ___ Not applicable

Available cash to close ___ Yes ___ No ___ Not applicable

Debts ___ Yes ___ No ___ Not applicable

Assets ___ Yes ___ No ___ Not applicable

Based on the information that the prospective applicant(s) / applicant(s) have provided, the mortgage company has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section.

Approval of the loan requires:

1. Receipt of a complete loan application and all supporting documents requested;

2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided;
3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes;
4. The collateral for the loan to satisfy the lender's requirements;
5. The loan, as described, to remain available in the market;
6. The prospective applicant(s) / applicant(s) to execute all documents the lender requires;
7. The following additional items (list):

This conditional pre-qualification expires on: _____

Residential Mortgage Loan Originator Name

Mailing address

Phone number

e-mail address

NMLS ID #

Exhibit 3

Figure 7 TAC §80.201(b)

Form B

Conditional Approval Letter

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Company:

NMLS ID #:

Loan Details:

Loan Amount:

Interest Rate*:

Term:

Interest Rate Lock Expires (if applicable):

Maximum Loan-to-Value Ratio:

Loan Type and Program:

*Interest rate is subject to change unless it has been locked

Has a subject property been identified? ____ Yes ____ No

Mortgage company has:

Reviewed prospective applicant's / applicant's credit report and credit score ____ Yes ____ Not applicable

Verified prospective applicant's / applicant's income ____ Yes ____ Not applicable

Verified prospective applicant's / applicant's available cash to close ____ Yes ____ Not applicable

Verified prospective applicant's / applicant's debts and other assets ____ Yes ____ Not applicable

Prospective applicant(s) / applicant(s) is approved for the loan provided that creditworthiness and financial position do not materially change prior to closing and provided that:

1. The subject property is appraised for an amount not less than \$_____
2. The lender receives an acceptable title commitment
3. The lender receives an acceptable survey

4. The subject property's condition meets lender's requirements
5. The subject property is insured in accordance with lender's requirements
6. The prospective applicant(s) / applicant(s) executes all the documents lender requires and
7. The following additional conditions are complied with (list):

This conditional approval expires on _____.

Residential Mortgage Loan Originator Name

Mailing address

Phone number

e-mail address

NMLS ID #

Exhibit 4

Rule §81.201 Loan Status Forms

(a) Except as otherwise provided by subsection (c) of this section, when provided to a mortgage applicant or prospective mortgage applicant, written confirmation of conditional pre-qualification shall include the information in Form A, Figure: 7 TAC §81.201(a). This information can be provided by utilizing Form A or an alternate form that includes all of the information found on Form A. There is no requirement to issue a written confirmation of conditional pre-qualification. Form A or an alternate form may be modified by adding any of the following as needed:

[Figure: 7 TAC §81.201\(a\)](#)

- (1) Any additional aspects of the loan as long as not misleading;
- (2) Any additional items that the originator has reviewed in determining conditional qualifications; or
- (3) Any additional terms, conditions, and requirements.

(b) When provided to a mortgage applicant or prospective mortgage applicant, written notification of conditional loan approval on the basis of credit worthiness, but not on the basis of collateral, shall include the information in Form B, Figure 7: TAC §81.201(b). This information can be provided by utilizing Form B or an alternate form that includes all of the information found on Form B. There is no requirement to issue a written notification of conditional loan approval. Form B or an alternate form may be modified by adding the additional information permitted by subsection (a)(1) - (3) of this section, or disclosure of fees charged. A disclosure of fees charged, on Form B or an alternate form, does not serve as a substitute for any fee disclosure required by state or federal laws or regulations. A conditional loan approval should not be issued unless the company or originator has verified that, absent any material changes prior to closing, the mortgage applicant or prospective mortgage applicant has satisfied all loan requirements related to credit, income, assets, and debts. Verification may be conducted manually or by electronic means.

[Figure: 7 TAC §81.201\(b\)](#)

(c) Subsection (a) of this section does not apply to "firm offers of credit," as that term is defined in 15 U.S.C. §1681a(1).

Exhibit 5

Figure 7 TAC §81.201(a)

Form A

Conditional Pre-Qualification Letter

This is not a loan approval or commitment to lend

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID #

Loan Details:

Loan Amount:

Qualifying Interest Rate:

Term:

Maximum Loan-to-Value Ratio:

Loan Type and Description:

Mortgage banker ___ has ___ has not reviewed the prospective applicant's / applicant's credit report and credit score

The prospective applicant(s) / applicant(s) has provided the mortgage banker with the following information:

Income ___ Yes ___ No ___ Not applicable

Available cash to close ___ Yes ___ No ___ Not applicable

Debts ___ Yes ___ No ___ Not applicable

Assets ___ Yes ___ No ___ Not applicable

Based on the information that the prospective applicant(s) / applicant(s) has provided, the mortgage banker has determined that the prospective applicant(s) / applicant(s) is eligible and qualified to meet the financial requirements of the loan.

This is not a loan approval or a commitment to lend on the terms described in the Loan Details section.

Approval of the loan requires:

1. Receipt of a complete loan application and all supporting documents requested
2. Lender verification of the information that the prospective applicant(s) / applicant(s) has provided

3. The prospective applicant's / applicant's financial status and credit report to remain substantially the same until the loan closes
4. The collateral for the loan to satisfy the lender's requirements
5. The loan, as described, to remain available in the market
6. The prospective applicant(s) / applicant(s) to execute all documents the lender requires
7. The following additional items (list):

This conditional pre-qualification expires on _____

Residential Mortgage Loan Originator Name

Mailing address

Phone number

e-mail address

NMLS ID #

Exhibit 6

Figure 7 TAC §81.201(b)

Form B

Conditional Approval Letter

Date:

Prospective Applicant(s) / Applicant(s):

Mortgage Banker:

NMLS ID #

Loan Details:

Loan Amount:

Interest Rate*:

Term:

Interest Rate Lock Expires (if applicable):

Maximum Loan-to-Value Ratio:

Loan Type and Program:

*Interest rate is subject to change unless it has been locked

Has a subject property been identified? ____ Yes ____ No

Mortgage banker has:

Reviewed prospective applicant's / applicant's credit report and credit score: ____ Yes ____ Not applicable

Verified prospective applicant's / applicant's income: ____ Yes ____ Not applicable

Verified prospective applicant's / applicant's available cash to close: ____ Yes ____ Not applicable

Verified prospective applicant's / applicant's debts and other assets: ____ Yes ____ Not applicable

Prospective applicant(s) / applicant(s) is approved for the loan provided that creditworthiness and financial position do not materially change prior to closing and provided that

1. The subject property is appraised for an amount not less than \$_____
2. The lender receives an acceptable title commitment
3. The lender receives an acceptable property survey

4. The subject property's condition meets lender's requirements
5. The subject property is insured in accordance with lender's requirements
6. The prospective applicant(s) / applicant(s) executes all the documents the lender requires and
7. The following additional conditions are complied with (list):

This conditional approval expires on _____.

Residential Mortgage Loan Originator Name

Mailing address

Phone number

e-mail address

NMLS ID #