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REV. 4-27-2020

**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) the Texas Department of Savings and Mortgage Lending (TDSML) 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, respectively. The TDSML also amended the texts of these loan status forms.

**In the March 27, 2020, issue of the *Texas Register* (45 TexReg 2259) and in the April 17, 2020, issue of the *Texas Register* (45 TexReg 2591) the TDSML published a Correction of Error stating that the figures for Form B in 7 TAC §§80.201(b) and 81.201(b) in the November 1, 2020, Texas Register were submitted with incorrect text. These Corrections of Error also submitted these Forms B with incorrect text. The TDSML will submit the correct Forms B in a future issue of the Texas Register. In my discussions with TDSML, however, I was informed that the correct loan status Forms A and B are presently on its website, [click here](#).**

**These adopted amendments to §§80.201 and 81.201 and their respective loan status forms take effect 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 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.” (November 1, 2020, *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 are attached to this memorandum as **Exhibit 1** (§80.201(a) and (b)) and **Exhibit 2** (§81.201(a) and (b)).

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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:

- (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.

(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 (l).

## **Exhibit 2**

### 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:

- (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.

(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).