



Attorneys At Law

17824 Mound Road, Suite C

Cypress, TX 77433

Phone: 713-871-0005

Fax: 713-871-1358

Partners

Gregory S. Graham ¹

Shawn P. Black ²

Ryan Black ³

Senior Lawyers

David F. Dulock

Diane M. Gleason

Daniel S. Engle ⁴

Margaret A. Noles

Associates

Nick Stevens ⁵

Sydney Davis

Mehreen Nadeem

Ambria Wilmore

Of Counsel

David M. Tritter

Calvin C. Mann, Jr.

Thomas E. Black, Jr. ⁶

Retired Partner(s)

Calvin C. Mann, Jr.

Thomas E. Black, Jr. ⁶

¹ Also Licensed in Georgia

² Also Licensed in Kentucky and New York

³ Also Licensed in District of Columbia

⁴ Also Licensed in New York

⁵ Also Licensed in Oklahoma

⁶ Also Licensed in New York and Washington

March 28, 2022

To: Clients and Friends

From: David F. Dulock

Subject: Joint Financial Regulatory Agencies propose amendments to §153.1(2) (Business Day Definition) Concerning Home Equity Lending

In the March 25, 2022, *Texas Register* ([47 Tex.Reg 1556](#)), the Finance Commission of Texas and the Texas Credit Union Commission (“commissions”) published a proposed amendment to the “business day” definition in §153.1(2) of the Home Equity Lending Interpretations.

Currently, §153.1(2) defines business day as “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.”

The commissions propose to delete the current business day definition and replace it with the following business day definition:

(2) Business 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). When a holiday falls on a Saturday or Sunday, entities might observe the holiday on the preceding Friday or following Monday (e.g., when July 4 falls on a Saturday, entities might observe the holiday on Friday, July 3). For purposes of this subparagraph, these observed holidays (in the example, July 3) are business days.

(B) As used in Section 50(f)(2)(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.

Comments on the proposed business day definition may be submitted in writing to Matthew Nance, Deputy General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov. To be considered, a written comment must be received on or before the 30th day after the date the proposal is published in the *Texas Register*.

This Memorandum is provided as general information regarding the subject matter covered, but no representations or warranty of the accuracy or reliability of the content of this information are made or implied. Opinions expressed in this memorandum are those of the author alone. In publishing this information, neither the author nor the law firm of Black, Mann & Graham L.L.P. is engaged in rendering legal services. While this information concerns legal and regulatory matters, it is not legal advice and its use creates no attorney-client relationship or any other basis for reliance on the information. Readers should not place reliance on this information alone but should seek independent legal advice regarding the law applicable to matters of interest or concern to them. The law firm of Black, Mann & Graham L.L.P. expressly disclaims any obligation to keep the content of this information current or free of errors.