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To: Clients and Friends

From: David F. Dulock

Subject: Texas Legislative Update I – Senate Bill 2330 Grants Temporary Authority for Residential Mortgage Loan Originator Applicants

Effective for applications submitted to the appropriate Texas regulatory official on or after November 24, 2019, Senate Bill 2330 ([click here](#)) grants temporary authority for certain individuals to act as a residential mortgage loan originator in Texas for a period not exceeding 120 days if the conditions and requirements of new Section 180.0511, Texas Finance Code, added by Senate Bill 2330 are satisfied.

Section 180.0511 grants temporary authority to act as a residential mortgage loan originator in Texas to (a) a registered mortgage loan originator who does not hold a license issued under Chapter 156 (*Residential Mortgage Loan Company Licensing and Registration Act*), Chapter 157 (*Mortgage Banker Registration and Residential Mortgage Loan Originator License Act*), Chapter 342 (*Consumer Loans*), Chapter 347 (*Manufactured Home Credit Transactions*), Chapter 348 (*Motor Vehicle Installment Sales*), or Chapter 351 (*Property Tax Lender License Act*) of the Finance Code; (b) an individual licensed by another state or governmental jurisdiction to engage in mortgage loan origination in that other state or governmental jurisdiction; and (c) a residential mortgage loan originator licensed to engage in business as a mortgage loan originator in Texas under Chapter 156, 157, 342, 347, 348, or 351 to temporarily act as a residential mortgage loan originator under a different Chapter listed above.

In order to be considered to have the 120-day temporary authority to act as a residential mortgage loan originator in Texas pursuant to Section 180.0511:

- (a) A registered mortgage loan originator described in (a) above must:
 - (1) become employed by an entity licensed or registered by Texas to engage in Texas residential mortgage loan origination business;
 - (2) have not had:
 - (A) an application for a Texas residential mortgage loan originator license or other residential mortgage loan originator license required by another jurisdiction denied; or
 - (B) a Texas residential mortgage loan originator license or a residential mortgage loan originator license required by another jurisdiction revoked or suspended in any governmental jurisdiction;
 - (3) have not been subject to or served with a cease and desist order (i) in any governmental jurisdiction or (ii) by the Director of the CFPB under Section 5113(c) of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. Chapter 51);
 - (4) have not been convicted of a misdemeanor or felony that would prevent licensure as a Texas residential mortgage loan originator under Chapter 156, 157, 342, 347, 348, or 351 of the Finance Code;
 - (5) have submitted to the appropriate Texas regulatory official an application on the application form prescribed by that official and the information concerning the applicant's identity required by Section 180.054 (*i.e.*, applicant's fingerprints, personal history and experience, and authorization for the NMLSR and the regulatory official to

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obtain the applicant’s credit report and information relating to administrative, civil or criminal findings); and

(6) was registered in the Nationwide Mortgage Licensing System and Registry (NMLSR) as a loan originator during the one-year period preceding the date on which the individual submitted to the appropriate Texas regulatory official the application and information required by (a)(5).

- (b) An out-of-state licensed mortgage loan originator described in (b) above must:
 - (1) be employed by an entity licensed or registered by Texas to engage in Texas residential mortgage loan origination business;
 - (2) meet the eligibility requirements provided by (a)(2), (3), (4), and (5); and
 - (3) have held the license issued by another state or governmental jurisdiction to engage in mortgage loan origination during the 30-day period preceding the date on which the individual submitted to the appropriate Texas regulatory official the application and information required by (a)(5).

- (c) A Texas licensed residential mortgage loan originator described in (c) above must:
 - (1) be employed by an entity licensed or registered by Texas to engage in Texas residential mortgage loan origination business;
 - (2) meet the eligibility requirements provided by (a)(2), (3), (4), and (5); and
 - (3) have held the license issued by the Texas regulatory official to engage in business as a residential mortgage loan originator during the 30-day period preceding the date on which the individual submitted to the appropriate Texas regulatory official the application and information required by (a)(5).

Section 180.0511 establishes that the 120-day period for temporary authority to act as a Texas residential mortgage loan originator begins on the date the individual submits to the appropriate Texas regulatory official the required application on the prescribed form and the information on the applicant’s identity required by Section 180.054 (*i.e.*, applicant’s fingerprints, personal history and experience, and authorization for the NMLSR and the regulatory official to obtain the applicant’s credit report and information relating to administrative, civil or criminal findings) and ends on the earliest of: (i) the date on which the individual withdraws the application; (ii) the date on which the regulatory official denies or issues a notice of intent to deny the application; (iii) the date on which the regulatory official issues the individual a license; or (iv) the 120th day after the application date, if the application is listed on the NMLSR as incomplete.

Pursuant to Section 180.0511, an individual considered to have such temporary authority under Section 180.0511 and who engages in Texas residential mortgage loan origination activities is subject to the requirements of applicable federal and state laws and to applicable rules and regulations to the same extent as if that individual was a residential mortgage loan originator licensed in Texas.

Also pursuant to Section 180.0511, an employer of an individual considered to have such temporary authority under Section 180.0511 is likewise subject to the requirements of applicable federal and state laws and to applicable rules and regulations to the same extent as if that employer was a residential mortgage loan originator licensed in Texas.

Pursuant to Section 8 of Senate Bill 2330, the term “regulatory official” used in Section 180.0511 is defined by Section 180.002 of the Finance Code. Under subsection (17) of Section 180.002 “regulatory official” means (1) the banking commissioner of Texas, with respect to Subtitle A (*Texas Banking Act*), Subtitle F (*Texas Trust Company Act*), and Subtitle G (*Bank Holding Companies; Interstate Bank Operations*) of Title 3 (*Financial Institutions and Businesses*) of the Finance Code; (2) the savings and mortgage lending commissioner of Texas, with respect to Chapters 156 and 157 of the Finance Code; and the consumer credit commissioner of Texas, with respect to Chapters 342, 347, 348, and 351 of the Finance Code.

Finally, pursuant to Section 8 of Senate Bill 2330, Section 180.0511 applies only to an individual’s application for a residential mortgage loan originator license submitted to the appropriate regulatory official on or after November 24, 2019, and that an application for a residential mortgage loan originator license submitted before that date is governed by the law in effect on the date the application was submitted. This means that if an individual submits a Section 180.0511 application before November 24, 2019, it will not be effective for the individual to be considered to have temporary authority to act as a Texas residential mortgage loan originator. In addition, any Texas residential mortgage loan origination activities engaged in by that individual may be considered unlicensed activity subject to administrative enforcement and penalties by the appropriate regulatory official.

The above summary is not a complete description of Senate Bill 2330, and you are urged to review the entirety of the bill by clicking on the hyperlink in the first paragraph of page 1 of this Legislative Update. You may request a copy of Senate Bill 2330 from us, if you so desire.

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