



August 2, 2024

To: Clients and Friends

From: Daniel S. Engle

Subject: Texas Home Equity Lending Rules in Texas Administrative Code Readopted

Attorneys At Law

2905 Corporate Circle

Flower Mound, TX 75028

Phone: 972-353-4174

Fax: 972-221-9316

Partners

Shawn P. Black¹

Ryan Black²

Daniel S. Engle³

Steven Kubik

Senior Lawyers

Margaret A. Noles

Sydney Davis

Associates

Joshua Verkerk

Andrew Stokes

Of Counsel

David M. Tritter

Calvin C. Mann, Jr.

Gregory S. Graham⁴

Retired Partner(s)

Calvin C. Mann, Jr.

Thomas E. Black, Jr.*

Gregory S. Graham⁴

In the August 2, 2024, issue of the Texas Register (Volume 49, Number 31, Pages 5607-5826), the Finance Commission of Texas and the Texas Credit Union Commission (the “commissions”) announced the completion of their rule review of chapters in Title 7, Part 8 of the Texas Administrative Code governing Home Equity Lending Procedures (Chapter 151); Repair, Renovation, and New Construction on Homestead Property (Chapter 152); and Home Equity Lending (Chapter 153) (see 49 TexReg 5783). These rules provide official interpretations for provisions in Section 50(a)(5) - (7), (e) - (p), and (t), Article XVI of the Texas Constitution.

The commissions readopted Chapter 152 and Chapter 153 in their entirety with no changes so no substantive proposals were made for the official interpretations governing Repair, Renovation, and New Construction on Homestead Property (Chapter 152) or Home Equity Lending (Chapter 153). The commissions decided to readopt Chapter 151 (Home Equity Lending Procedures) in its entirety except for a proposed revision in 7 TAC Section 151(d) to specify that any petition to the Finance Commission to issue a home equity interpretation must be sent to the Texas Department of Savings and Mortgage Lending (see 49 TexReg 5615-16). This will replace the current provision that states that any petition must be sent to the Texas Office of the Consumer Credit Commissioner. The rationale is as the Texas Department of Savings and Mortgage Lending has the primary responsibility to license and regulate companies making mortgage loans in Texas that it should take the leading role in coordinating any future home equity interpretations.

Stakeholders have thirty days from the proposed rule’s publication on August 2, 2024 to make comments. Comments on the proposed change may be submitted in writing to Matthew Nance, General Counsel, Office of Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705 or by email to rule.comments@occc.texas.gov.

The Texas Secretary of State provides online access to the Texas Register on its website: <https://www.sos.state.tx.us/texreg/index.shtml>.

This Memorandum is provided as general information in regard to 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.

¹ Also Licensed in Kentucky and New York

² Also Licensed in District of Columbia

³ Also Licensed in New York

⁴ Also Licensed in Georgia

*Retired from the practice of law