



UNDERWRITING BULLETIN - TEXAS

No. 02

DATE: June 3, 2010

RE: Residential Mortgage Loan Originators Act

Residential Mortgage Loan Originators Act

The Residential Mortgage Loan Originators Act (Chapter 180 of the Texas Finance Code) became effective June 1, 2010. A residential mortgage loan originator "RMLO" is defined as an individual who for gain or compensation or in the expectation of gain or compensation takes a residential mortgage loan application or offers or negotiates the terms of a residential mortgage loan. (Sect. 180.002[19]) The law establishes a comprehensive system to license and regulate RMLOs, and imposes penalties on those individuals who engage in the business of originating mortgage loans on residential real estate without first obtaining the required license.

Exemptions

Certain individuals and certain transactions, such as those between immediate family members, fall within the Act's exemptions. (Sect. 180.003)

Applicability to Title Companies

Questions have been raised about the impact of the law on title companies. Title companies are not in the business of originating mortgage loans, and in our opinion are therefore not regulated by the Act. Additionally, there is nothing in the law which affects the validity or enforceability of a mortgage which was originated by a third party in violation of the Act.

Inquiries from Third Parties

You might be asked whether the law applies to specific persons in specific situations. While your own management must decide how to respond, care should always be taken when commenting on the applicability of any law. It is generally better to refer people to their own legal counsel.

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