

Informal, written pre-comments regarding the SML's draft rules MUST be submitted *by 5:00 PM (CDT) on July 12, 2024. Send your email to:*

rules.comments@sml.texas.gov

BCC: support@sellerfinancecoalition.org

RE: My comments regarding the SML's draft rules adverse to Texans, RMLOs and home buyers

To whom it does concern,

My name is ----- and my business involves ----- . We help people who otherwise would not be able to own a home or buy land make that dream a reality by doing _____

Texas leads the nation in the area of Seller Finance. Up to 25% of all seller financed notes originated in the USA are done in Texas. The current economic trends are resulting in a growing number of seller financed transactions for homes or unimproved land.

Why is seller financing so important? – Seller financing is important for individuals and families in Texas that want to buy a home and who find themselves in one of these circumstances: 1) they don't have 2+ years of W-2s or 3 years of filed business tax returns because they recently started their own business, 2) they are seeking a small loan, and, therefore, face very expensive bank/mortgage fees (banks don't like to lend under \$120,000 due to their fixed underwriting costs), 3) the house or land is in a rural area (banks don't like to lend outside of cities), or 4) they are buying unimproved land (banks don't like to lend on unimproved land).

Currently, there are numerous proposed rule changes that would harm future Texas home buyers, particularly those who are currently not well served by the financial services industry due to demographic and economic factors. These proposed rule changes will also hurt numerous small business owners and private home sellers. Two examples of harmful rule changes are:

- A. The Department's new regulation requiring that all RMLO (Registered Mortgage Loan Originator) agents work for a bank or mortgage company harms Texas citizens in multiple ways.
 1. RMLOs can no longer be self-employed despite their own efforts to become licensed professionals.
 2. All prospective buyers must now seek to fit within the narrowing loan requirements imposed by banks and mortgage companies, etc. This denies access to credit to many hard-working people who are a) self-employed, b) buying vacant land, c) have lower incomes, and d) using multi-generational resources to qualifying for homeownership loans.
 3. It means private individuals or small businesses that already own homes or properties cannot hire an RMLO to qualify potential buyers as part of a seller-financing transaction. This prevents such sellers from complying with Dodd-Frank.

- B. To legally meet the growing demand for non-bank financing on homes and vacant land numerous individuals rely upon seller financing. Private individuals or small businesses in Texas who offer seller-financing for homes or land to other Texans, frequently use independent RMLOs. Using these independent RMLOs protects both the Buyer and the Seller.

Given these facts, the following proposed language in “§56.100 Licensing Requirements” is rather harmful.

“However, if the lender owns the residential real estate securing the loan and has **exceeded the limit for exempt transactions as provided by Finance Code §156.202(a-1) (3), the lender must be licensed** under Finance Code Chapter 156, regardless of whether the lender has secured the services of an originator as provided by this subsection.”

This proposed verbiage goes beyond the SAFE Act and Dodd Frank requirements and imposes a harsh “scarcity penalty” on disadvantaged buyers by severely restricting the number of properties that a non-lender seller can sell using seller finance. This harsh and unnecessary restriction on what private citizens in Texas can do (sell) with their own houses and land is unwarranted. In a time of shrinking inventory and rising demand removing assets and liquidity from the marketplace is harmful to all Texans.

Here are some reasons an individual or small business will hire an RMLO agent as part of a seller financed transaction

- A. The RMLO ensures that all Dodd-Frank regulations are followed for both the lender and the borrower (homeowner).
- B. The RMLO agent makes sure the borrower (homeowner) is economically qualified to buy (has the ability to pay) and understands the specifics of the loan.
- C. Not using an RMLO allows unsavory lenders to take advantage of naïve borrowers.
- D. Not using an RMLO may cause individuals or small Texas businesses to unknowingly violate Dodd-Frank and face federal charges and/or penalties that could cause financial duress, or unintentionally destroy and close small Texas businesses.