

## **TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING**

### **Open Records Policy and Procedures**

#### **What is an "open records request"?**

An open records request is a request for public information contained in the files or records of a Texas governmental agency, including the Texas Department of Savings and Mortgage Lending. Public information requests are governed by the [Texas Public Information Act](#) , Texas Government Code Chapter 552.

An open records or public information request must be for inspection or copies of an existing document or record. We are not required to generate a new document in order to respond to a request.

#### **What is "public information"?**

Public information is any information collected, assembled, or maintained under a law or in connection with the transaction of official business by a governmental body, or for a governmental body if the governmental body owns the information or has a right of access to it.

#### **How do I request public information?**

To request public information from us, the request must be in writing, and must be mailed, hand-delivered, faxed, or e-mailed to us as follows:

Open Records Request  
Texas Department of Savings and Mortgage Lending  
2601 North Lamar, Suite 201  
Austin, Texas 78705  
(512) 475-1360 Fax  
[cjones@sml.state.tx.us](mailto:cjones@sml.state.tx.us)

Telephone inquiries may be made to (512) 475-1350.

#### **What should I include in my request?**

Complete contact information is essential, so please be sure to include your name, address, and telephone number. This additional information is particularly important if you submit an email request. Describe the documents that you desire with as much specificity as possible. If you do not know exactly what documents may be involved, describe the information you desire as specifically as possible, and we will determine if responsive documents exist. If your description is not clear or could result in a very large number of documents, we will contact you to determine if the request can be clarified or

narrowed. You may disclose your purpose to us if you believe that knowledge will help us locate the documents you seek, but this disclosure is not requested or required. We are prohibited by law from asking you the purpose of your request.

**How long will it take to fill my request?**

We will respond to a request for clearly public information as promptly as is reasonably possible, but not later than 10 business days after receipt of the request. If you have a particular need for expedited treatment, we will attempt to meet that need but cannot guarantee an early response date.

**Is there any information maintained by the TDSML that I cannot inspect or obtain a copy of?**

Yes. We are prevented from disclosing certain information because the information is confidential by law. The following information is confidential by statute:

*Financial institutions, generally.* Information, regardless of the circumstances under which the information is obtained, regarding a financial institution or a shareholder, participant, officer, director, manager, affiliate, or service provider of a financial institution, other than information in a public statement or the public portion of a call report or profit and loss statement and all related files and records of the department. Finance Code §96.351.

*Mortgage brokers and loan officers.* The Commissioner must keep confidential any criminal background information obtained in connection with each application for the issuance or renewal of a license. He may not release or disclose the information unless: (1) the information is a public record at the time the Commissioner obtains the information; or (2) the Commissioner releases the information: (a) under order from a court; (b) with the permission of the applicant; (c) to a person through whom the applicant is conducting or will conduct business; or (d) to a governmental agency. Finance Code §156.206; 7 TAC §80.7(b).

Information the release of which might jeopardize an ongoing investigation of potentially unlawful activities. Finance Code §96.355.

In addition to these mandatory confidentiality provisions, the Public Information Act itself provides certain exceptions to disclosure. Although not an all-inclusive list, we will generally withhold the following documents or information:

Information contained in or relating to an examination report of a savings bank or savings and loan association. Gov't Code §552.112.

With respect to our present and former employees or officials who affirmatively so elect, the telephone number, home address, social security number, or information that reveals whether the employee or official has family members. Gov't Code §552.024.

Information in our personnel files, the disclosure of which would be a clearly unwarranted invasion of privacy. Gov't Code §552.102.

Internal memoranda or documents which reflect advice, recommendations, and opinions reflecting our policy-making processes. Gov't Code §552.111.

Information subject to attorney-client privilege. Gov't Code §552.107.

Other information that involves details of intimate personal affairs, and for which the public has no particular cognizable interest. Gov't Code §552.101.

If we withhold information that we consider to be confidential by law, we are required to request an opinion from the Office of the Attorney General on the propriety of not disclosing the information, unless an opinion specifically dealing with the information at issue has previously been issued. You will receive a copy of any correspondence requesting an opinion and are entitled to submit a response to the Attorney General if you disagree with our decision. You will also receive a copy of the Attorney General's response.

### **What does it cost to receive public information?**

The permissible charges for public information are set by the General Services Commission (GSC) and may be found at 1 TAC §§111.61 et seq.; also see 7 TAC §79.108. In general, if the number of copies in your request is 50 or less, the charge will be \$0.10 per page plus the cost of postage (or other delivery method, at your request); if more than 50 pages, the charge will be \$0.10 per page plus personnel costs necessary to compile the documents at a rate of \$18 per hour, in addition to the charge for postage. If the estimated cost of fulfilling your request exceeds \$200, we will notify you and require a reasonable deposit be received in our office prior to processing your request.

### **When do I pay for the information provided?**

We normally will provide the requested documents prior to payment and invoice you for the charges. As noted above, if the estimated cost of fulfilling your request exceeds \$200, we will require a reasonable deposit prior to processing your request. If you have an unpaid invoice from a previous request, you will be required to pay for the **present** request in full prior to delivery. In addition, if previous unpaid invoices exceed \$100, we will require a deposit equal to the previous unpaid invoices prior to fulfilling the present request.