FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE E. OTHER FINANCIAL BUSINESSES

CHAPTER 156. RESIDENTIAL MORTGAGE LOAN COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 156.001. SHORT TITLE. This chapter may be cited as the Residential Mortgage Loan Company Licensing and Registration Act.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 2, eff. September 1, 2013.

Sec. 156.002. DEFINITIONS. In this chapter:

(1) "Auxiliary mortgage loan activity company" means a political subdivision of this state or the federal government doing business for consumers in this state, or an organization that qualifies for an exemption from state franchise and sales and use tax as a 501(c)(3) organization, that is involved in affordable home ownership lending programs.

(1-a) "Commissioner" means the savings and mortgage lending commissioner.

(1-b) "Credit union subsidiary organization" has the meaning assigned by Section 180.002.

(1-c) "Department" means the Department of Savings and Mortgage Lending.

(2) "Disciplinary action" means an order by the commissioner that requires one or more of the following:

(A) suspension or revocation of a license or registration under this chapter;

(B) probation of a suspension or revocation of a license or registration under this chapter on terms and conditions that the commissioner determines appropriate;

(C) a reprimand of a person licensed or

registered under this chapter; or

(D) an administrative penalty imposed on a person licensed or registered under this chapter under Section 156.302.

(3) "Finance commission" means the Finance Commission of Texas.

(4) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(1), eff. September 1, 2011.

(4-a) "Independent contractor loan processor or underwriter company" means a corporation, company, partnership, or sole proprietorship that receives compensation for an individual performing clerical or support duties as an independent contractor loan processor or underwriter at the direction of a licensed residential mortgage loan originator.

(4-b) "Inspection" includes examination.

(5) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(1), eff. September 1, 2011.

(6) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(1), eff. September 1, 2011.

(6-a) "Loan processor or underwriter" has the meaning assigned by Section 180.002.

(7) "Mortgage applicant" means:

(A) an applicant for a residential mortgage loan; or

(B) a person who is solicited to obtain a residential mortgage loan.

(8) "Mortgage banker" has the meaning assigned by Section 157.002.

(8-a) "Mortgage company" means a corporation, company, partnership, or sole proprietorship that engages in the business of residential mortgage loan origination on residential real estate located in this state.

(9) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(1), eff. September 1, 2011.

(10) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(1), eff. September 1, 2011.

(10-a) "Nationwide Mortgage Licensing System and Registry" has the meaning assigned by Section 180.002.

(10-b) "Qualifying individual" means an individual who is:

(A) licensed under Chapter 157 as a residential mortgage loan originator; and

(B) designated by a residential mortgage loan company as the company's representative.

(10-c) "Recovery fund" means the fund established and maintained by the commissioner under Subchapter F and Section 13.016.

(11) "Registered financial services company" means a person registered under Section 156.2012.

(12) "Residential mortgage loan" has the meaning assigned by Section 180.002.

(13) "Residential mortgage loan company" means a person, other than an individual, that engages in the business of residential mortgage loan origination on residential real estate located in this state. The term includes a credit union subsidiary organization, auxiliary mortgage loan activity company, mortgage company, independent contractor loan processor or underwriter company, and financial services company.

(14) "Residential mortgage loan originator" has the meaning assigned by Section 180.002.

(15) "Residential real estate" has the meaning assigned by Section 180.002.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 228 (H.B. 1716), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 905 (H.B. 2783), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.052, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 65(a)(1), eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 3, eff.

September 1, 2013.

Sec. 156.003. SECONDARY MARKET TRANSACTIONS. This chapter does not prohibit a residential mortgage loan originator sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter from receiving compensation from a party other than the mortgage applicant for the sale, transfer, assignment, or release of rights on the closing of a mortgage transaction.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 4, eff. September 1, 2013.

Sec. 156.004. DISCLOSURE TO APPLICANT. (a) At the time an applicant submits an application to a residential mortgage loan originator sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter, the residential mortgage loan originator shall provide to the applicant a disclosure that specifies:

(1) the nature of the relationship between the applicant and the residential mortgage loan originator;

(2) the duties the residential mortgage loan originator has to the applicant; and

(3) how the residential mortgage loan originator will be compensated.

(b) The finance commission, by rule, shall adopt a standard disclosure form to be used by the residential mortgage loan originator.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 867, Sec. 85, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 7, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 5, eff. September 1, 2013.

Sec. 156.005. AFFILIATED BUSINESS ARRANGEMENTS. Unless prohibited by federal or state law, this chapter may not be construed to prevent affiliated or controlled business arrangements or loan origination services by or between residential mortgage loan originators, sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter, and other professionals if the residential mortgage loan originator complies with all applicable federal and state laws permitting those arrangements or services.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.01, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 8, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 6, eff. September 1, 2013.

SUBCHAPTER B. ADMINISTRATION PROVISIONS

Sec. 156.101. ADMINISTRATION AND ENFORCEMENT OF CHAPTER; PARTICIPATION IN NATIONWIDE REGISTRY. (a) The commissioner shall administer and enforce this chapter.

(a-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(3), eff. September 1, 2013.

(a-2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(3), eff. September 1, 2013.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1317, Sec. 28(i), eff. September 1, 2009.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1317, Sec. 28(i), eff. September 1, 2009.

(d) The commissioner shall participate in the Nationwide Mortgage Licensing System and Registry as provided by Chapter 180.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 4, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(g), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 28(i), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 8, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(3), eff. September 1, 2013.

Sec. 156.102. RULEMAKING AUTHORITY. (a) The finance commission may adopt and enforce rules necessary for the intent of or to ensure compliance with this chapter.

(a-1) The finance commission may adopt rules under this chapter as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

(b-1) The finance commission on the commissioner's recommendation may adopt rules to promote a fair and orderly administration of the recovery fund consistent with the purposes of Subchapter F.

(c) The finance commission may adopt rules regarding books and records that a person licensed under this chapter is required to keep, including the location at which the books and records must be kept.

(d) The finance commission shall consult with the commissioner when proposing and adopting rules under this chapter.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 867, Sec. 86, eff. Sept. 1,

2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.02, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 5, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 9, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 9, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Sec. 156.103. POWERS OF COMMISSIONER. (a) In addition to any other action, proceeding, or remedy authorized by law, the commissioner may institute an action in the commissioner's name to enjoin a violation of this chapter or a rule adopted under this chapter. To sustain an action filed under this subsection, it is not necessary to allege or prove that an adequate remedy at law does not exist or that substantial or irreparable damage would result from a continued violation of this chapter.

(b) The commissioner is not required to provide an appeal bond in any action or proceeding to enforce this chapter.

(c) The commissioner may authorize specific employees to conduct hearings and make recommendations for final decisions in contested cases.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Sec. 156.104. MORTGAGE INDUSTRY ADVISORY COMMITTEE. (a) The mortgage industry advisory committee is created to advise and assist the commissioner.

(b) The advisory committee is composed of six members appointed by the commissioner. Each of the members must be:

(1) under the regulatory authority of the department;

(2) actively engaged in the business of originating,

brokering, or funding residential mortgage loans at the time of appointment; and

(3) primarily engaged in the business of originating, brokering, or funding residential mortgage loans for at least two years before the member's appointment.

(b-1) The members of the committee must include six individuals licensed by the department as residential mortgage loan originators, two of whom must hold an active real estate broker or salesperson license issued under Chapter 1101, Occupations Code.

(c) Appointments to the advisory committee shall be made without regard to the sex, race, color, age, disability, religion, or national origin of the appointees.

(d) The members of the advisory committee serve for a staggered three-year term, with the terms of two members expiring February 1 of each year.

(e) The advisory committee shall meet at least twice a year at the call of the commissioner.

(f) The commissioner may remove a member of the advisory committee if:

(1) the member does not maintain the qualifications required by Subsection (b); or

(2) the commissioner determines that the member cannot discharge the member's duties for a substantial part of the term for which the member is appointed.

(g) In the event of a vacancy during a term, the appointing entity or official shall fill the vacancy for the unexpired part of the term with a person who meets the qualifications of the vacated position.

(h) In addition to other powers and duties delegated to the advisory committee by the commissioner, the advisory committee shall advise the commissioner with respect to:

(1) the proposal and adoption of rules relating to the mortgage industry;

(2) the form of or format for any applications or other documents under this chapter or Chapter 157; and

(3) the interpretation, implementation, and enforcement of this chapter and Chapter 157.

(i) Each member of the advisory committee is entitled to a per diem allowance and to reimbursement of travel expenses necessarily incurred in performing functions as a member of the committee, subject to any applicable limitation in the General Appropriations Act.

(j) The advisory committee shall take a record vote on any matter described by Subsection (h)(1). The commissioner shall inform the finance commission of:

(1) the result of the vote; and

(2) any additional information the commissioner considers necessary to ensure the finance commission is sufficiently notified of the advisory committee's recommendations.

(k) A record vote taken by the advisory committee under Subsection (j) is only a recommendation and does not supersede the rulemaking authority of the finance commission under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 867, Sec. 87, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.03, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 5, eff. April 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 10, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 10, eff. September 1, 2013.

Sec. 156.105. STANDARD FORMS. (a) The finance commission by rule shall adopt one or more standard forms for use by a residential mortgage loan originator sponsored by and conducting business for a licensed or registered residential mortgage loan

company under this chapter in representing that an applicant for a residential mortgage loan is preapproved or has prequalified for the loan.

(b) The finance commission shall adopt rules requiring a residential mortgage loan originator licensed under Chapter 157 to use the forms adopted by the finance commission under Subsection (a).

Added by Acts 2001, 77th Leg., ch. 407, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 11, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 11, eff. September 1, 2013.

SUBCHAPTER C. RESIDENTIAL MORTGAGE LOAN COMPANY LICENSES AND REGISTRATION

Sec. 156.201. LICENSES REQUIRED. (a) A person may not act in the capacity of, engage in the business of, or advertise or hold that person out as engaging in or conducting the business of a residential mortgage loan company in this state unless the person holds an active residential mortgage loan company license, is registered under Section 156.2012, or is exempt under Section 156.202.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(4), eff. September 1, 2013.

(b-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(4), eff. September 1, 2013.

(b-2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(4), eff. September 1, 2013.

(c) Each residential mortgage loan company and the company's qualifying individual licensed under Chapter 157 is responsible to the commissioner and members of the public for any act or conduct performed by the residential mortgage loan originator sponsored by or acting for the residential mortgage loan company in connection with:

(1) the origination of a residential mortgage loan; or

(2) a transaction that is related to the origination of a residential mortgage loan in which the qualifying individual knew or should have known of the transaction.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.04, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 905 (H.B. 2783), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 13, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 13, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(4), eff. September 1, 2013.

Sec. 156.2012. REGISTERED FINANCIAL SERVICES COMPANY. (a) A financial services company may perform the services of a residential mortgage loan company if the company is registered under this chapter.

(b) To be eligible to register as a registered financial services company, a person must:

(1) be a depository institution exempt from this chapter under Section 156.202(a-1)(4)(A) and chartered and regulated by the Office of the Comptroller of the Currency, or be a subsidiary of the institution;

(2) provide a business plan satisfactory to the commissioner that sets forth the person's plan to:

(A) provide education to its sponsored residential mortgage loan originators;

(B) handle consumer complaints relating to its sponsored residential mortgage loan originators; and

(C) supervise the residential mortgage loan origination activities of its sponsored residential mortgage loan originators;

(3) pay a registration fee in an amount not to exceed $500;

(4) designate an officer of the person to be responsible for the activities of its sponsored residential mortgage loan originators;

(5) submit a completed application through the Nationwide Mortgage Licensing System and Registry together with the applicable fee required by Subdivision (3) or Subsection (c);

(6) obtain preapproval from the commissioner that the person meets the eligibility requirements for registration as a financial services company; and

(7) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant.

(c) If the commissioner determines that a person has met the requirements of Subsection (b), the commissioner shall issue a registration to the person. The registration is valid for one year, expires on December 31 of each year, and must be renewed annually by meeting the requirements under Subsection (b) and paying a renewal fee in an amount not to exceed $500. A person must renew an expired registration in the manner determined by the commissioner.

(d) A registered financial services company is subject to Subchapters D and E as if the company were licensed as a residential mortgage loan company.

Added by Acts 2007, 80th Leg., R.S., Ch. 228 (H.B. 1716), Sec. 3, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 7, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 14, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 29, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 65(a)(9), eff. September 1, 2011.

Redesignated and amended from Finance Code, Section 156.214 by Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 32, eff. September 1, 2013.

Sec. 156.202. EXEMPTIONS.

(a) In this section, "depository institution," "dwelling," and "federal banking agency" have the meanings assigned by Section 180.002.

(a-1) The following entities are exempt from this chapter:

(1) a nonprofit organization:

(A) providing self-help housing that originates zero interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan; or

(B) that has designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan;

(2) a mortgage banker registered under Chapter 157;

(3) subject to Subsection (b), any owner of residential real estate who in any 12-consecutive-month period makes no more than three residential mortgage loans to purchasers of the property for all or part of the purchase price of the residential real estate against which the mortgage is secured; and

(4) an entity that is:

(A) a depository institution;

(B) a subsidiary of a depository institution that is:

(i) owned and controlled by the depository institution; and

(ii) regulated by a federal banking agency; or

(C) an institution regulated by the Farm Credit Administration.

(a-2) A person is not required to obtain a license or registration under this chapter to originate a loan subject to Chapter 342 or a loan governed by Section 50(a)(6), Article XVI, Texas Constitution, if the person:

(1) is enrolled in the Nationwide Mortgage Licensing

System and Registry;

(2) is licensed under Chapter 342; and

(3) makes consumer loans subject to:

(A) Subchapter G, Chapter 342; and

(B) Subchapter E or F, Chapter 342.

(b) In determining eligibility for an exemption under Subsection (a-1)(3), two or more owners of residential real estate are considered a single owner for the purpose of computing the number of mortgage loans made within the period specified by that subdivision if any of the owners are an entity or an affiliate of an entity, including a general partnership, limited partnership, limited liability company, or corporation, as defined by Section 1.002, Business Organizations Code.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 5, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 135, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.05, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 228 (H.B. 1716), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 905 (H.B. 2783), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 14, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 65(a)(4), eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 14, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 258 (S.B. 1203), Sec. 1, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 76 (S.B. 43), Sec. 1, eff. January 1, 2022.

Sec. 156.203. APPLICATION; FEES. (a) For purposes of this section, an application for a residential mortgage loan company license means an application for:

(1) a mortgage company license;

(2) a credit union subsidiary organization license;

(3) an auxiliary mortgage loan activity company license; or

(4) an independent contractor loan processor or underwriter company license.

(a-1) An application for a residential mortgage loan company license must be:

(1) in writing;

(2) under oath; and

(3) on the form prescribed by the commissioner.

(a-2) An application for a financial services company registration under Section 156.2012 must be:

(1) in writing;

(2) under oath; and

(3) on the form prescribed by the commissioner.

(b) An application for a residential mortgage loan company license must be accompanied by an application fee in an amount determined by the commissioner not to exceed $375.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

(d) An application fee under this section is not refundable and may not be credited or applied to any other fee or indebtedness owed by the person paying the fee.

(e) In addition to the disciplinary action by the commissioner authorized under Section 156.303(a)(7), the commissioner may collect a fee in an amount not to exceed $50 for any returned check or credit card charge back.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.06, eff.

September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 7, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 15, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 15, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 16, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Text of section as amended by Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 4

For text of section as amended by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 3, see other Sec. 156.2041.

Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: MORTGAGE COMPANY.

(a) To be issued a mortgage company license, an applicant must:

(1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;

(2) designate control persons for the mortgage company through the Nationwide Mortgage Licensing System and Registry;

(3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual;

(4) submit a completed branch application through the Nationwide Mortgage Licensing System and Registry for each branch office that engages in residential mortgage loan activity on residential real estate located in this state;

(5) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant;

(6) have the company name or assumed name properly filed with either the secretary of state or with the appropriate

county clerk's office; and

(7) provide financial statements and any other information required by the commissioner.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 16, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 17, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 18, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 4, eff. September 1, 2021.

Text of section as amended by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 2

For text of section as amended by Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 4, see other Sec. 156.2041

Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: MORTGAGE COMPANY. To be issued a mortgage company license, an applicant must:

(1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;

(2) designate control persons for the mortgage company through the Nationwide Mortgage Licensing System and Registry;

(3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual;

(4) if applicable, submit a completed branch application through the Nationwide Mortgage Licensing System and Registry for each branch office that engages in residential mortgage loan activity on residential real estate located in this state;

(5) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant;

(6) have the company name or assumed name properly filed with either the secretary of state or with the appropriate county clerk's office; and

(7) provide financial statements and any other information required by the commissioner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 16, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 18, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 2, eff. September 1, 2021.

Text of section as amended by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 3

Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: CREDIT UNION SUBSIDIARY ORGANIZATION.

To be issued a credit union subsidiary organization license, an applicant must:

(1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;

(2) designate control persons for the organization through the Nationwide Mortgage Licensing System and Registry;

(3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual;

(4) submit a completed branch application through the Nationwide Mortgage Licensing System and Registry for each branch office that engages in residential mortgage loan activity on residential real estate located in this state; and

(5) not be in violation of this chapter, a rule adopted

under this chapter, or any order previously issued by the commissioner to the applicant.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 16, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 19, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 20, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 3, eff. September 1, 2021.

Text of section as amended by Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 5

Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: CREDIT UNION SUBSIDIARY ORGANIZATION. (a) To be issued a credit union subsidiary organization license, an applicant must:

(1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;

(2) designate control persons for the organization through the Nationwide Mortgage Licensing System and Registry;

(3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual;

(4) submit a completed branch application through the Nationwide Mortgage Licensing System and Registry for each branch office that engages in residential mortgage loan activity on residential real estate located in this state; and

(5) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 19, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 5, eff. September 1, 2021.

Sec. 156.2043. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: AUXILIARY MORTGAGE LOAN ACTIVITY COMPANY. (a) To be issued an auxiliary mortgage loan activity company license, an applicant must:

(1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;

(2) designate control persons for the company through the Nationwide Mortgage Licensing System and Registry;

(3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual; and

(4) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 16, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 21, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 22, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Sec. 156.2044. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: INDEPENDENT CONTRACTOR LOAN PROCESSOR OR UNDERWRITER COMPANY. (a) To be issued an independent contractor loan processor or underwriter company license under this chapter, an applicant must:

(1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;

(2) designate control persons for the company through the Nationwide Mortgage Licensing System and Registry;

(3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual; and

(4) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant.

(b) An independent contractor loan processor or underwriter company or a sponsored residential mortgage loan originator is not authorized to originate residential mortgage loans with a license issued under Subsection (a).

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 16, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 23, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 24, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Sec. 156.2046. CONVICTION OF OFFENSE. A person is considered to have been convicted of a criminal offense if:

(1) a sentence is imposed on the person;

(2) the person received probation or community supervision, including deferred adjudication or community service; or

(3) the court deferred final disposition of the person's case.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 16, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 25, eff. September 1, 2013.

Sec. 156.206. CRIMINAL AND OTHER BACKGROUND CHECKS. (a) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

(b) The commissioner shall conduct criminal background and credit history checks on a person required to be licensed under this chapter.

(c) The commissioner shall keep confidential any background information obtained under this section and 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; or

(B) to a governmental agency.

(d) Notwithstanding Subsection (c), criminal history record information obtained from the Federal Bureau of Investigation may be released or disclosed only to a governmental entity or as authorized by federal statute, federal rule, or federal executive order.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 337, Sec. 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 407, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 867, Sec. 88, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 173, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 296, Sec. 11, 12, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 18, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 19, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 26, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5),

eff. September 1, 2013.

Sec. 156.207. ISSUANCE OF LICENSE. (a) The commissioner shall issue a license to an applicant for a residential mortgage loan company license if the commissioner finds that the applicant meets all requirements and conditions for the license.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 337, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 867, Sec. 89, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 21, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 27, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5), eff. September 1, 2013.

Sec. 156.208. RENEWALS.

(a-1) A residential mortgage loan company license issued under this chapter is valid through December 31 of the year of issuance and may be renewed on or before its expiration date if the residential mortgage loan company:

(1) pays to the commissioner a renewal fee in an amount determined by the commissioner not to exceed $375;

(2) has not shown a pattern or practice of abusive mortgage activity and has no civil judgments or liens that, in the commissioner's opinion, directly impact the ability of the residential mortgage loan company to conduct business while safeguarding and protecting the public interest; and

(3) continues to meet the minimum requirements for license issuance.

(b-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(6), eff. September 1, 2013.

(b-2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(6), eff. September 1, 2013.

(c) An application for renewal shall be in the form prescribed by the commissioner.

(d) On receipt of a request for a renewal of a license issued under this subchapter, the commissioner may conduct a criminal background check under Section 156.206.

(e) A renewal fee is not refundable and may not be credited or applied to any other fee or indebtedness owed by the person paying the fee.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(7), eff. September 1, 2011.

(g) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(7), eff. September 1, 2011.

(h) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(7), eff. September 1, 2011.

(i) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(7), eff. September 1, 2011.

(j) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(6), eff. September 1, 2013.

(k) In addition to the disciplinary action by the commissioner authorized under Section 156.303(a)(7), the commissioner may collect a fee in an amount not to exceed $50 for any returned check or credit card charge back.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 867, Sec. 90, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.747, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 170, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 859 (S.B. 988), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.09, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 905 (H.B. 2783), Sec. 7, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 12, eff. January 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 22, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 65(a)(7), eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 28, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(6), eff. September 1, 2013.

Sec. 156.2081. REINSTATEMENT AFTER EXPIRATION. (a) A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person who is otherwise eligible to renew a license, but has not done so before January 1, may renew the license before March 1 by paying the commissioner a reinstatement fee in an amount equal to 150 percent of the required renewal fee.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(5), eff. September 1, 2013.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(8), eff. September 1, 2011.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 655, Sec. 65(a)(8), eff. September 1, 2011.

Added by Acts 2001, 77th Leg., ch. 337, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.10, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 23, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 24, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 65(a)(8), eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(5),

eff. September 1, 2013.

Sec. 156.209. DENIAL OF APPLICATIONS AND RENEWALS. (a) If the commissioner declines or fails to issue or renew a license, the commissioner shall promptly give written notice to the applicant or the person requesting the renewal that the application or renewal, as appropriate, was denied.

(b) Before the applicant or person requesting the renewal may appeal to a district court as provided by Section 156.401, the applicant or person must file with the commissioner, not later than the 10th day after the date on which notice under Subsection (a) is received, an appeal of the ruling requesting a time and place for a hearing before a hearings officer designated by the commissioner.

(c) The designated hearings officer shall set the time and place for a hearing requested under Subsection (b) not later than the 90th day after the date on which the appeal is received. The hearings officer shall provide at least 10 days' notice of the hearing to the applicant or person requesting the renewal. The time of the hearing may be continued periodically with the consent of the applicant or person requesting the renewal. After the hearing, the commissioner shall enter an order from the findings of fact, conclusions of law, and recommendations of the hearings officer.

(d) If an applicant or person requesting the renewal fails to request a hearing under this section, the commissioner's refusal to issue or renew a license is final and may not be subject to review by the courts.

(e) A hearing held under this section is governed by Chapter 2001, Government Code. An appeal of a final order issued under this section may be made in accordance with Section 156.401.

(f) A person who requests a hearing under this section shall be required to pay a deposit to secure the payment of the costs of the hearing in an amount to be determined by the commissioner not to exceed $500. The entire deposit shall be refunded to the person if the person prevails in the contested case hearing. If the person does not prevail, any portion of the deposit in excess of the costs of the hearing assessed against that person shall be refundable.

(g) A person whose application for or request to renew a license has been denied is not eligible to be licensed for a period of two years after the date the denial becomes final, or a shorter period as determined by the commissioner after evaluating the specific circumstances of the denial. The finance commission may adopt rules to provide conditions for which the commissioner may shorten the period of ineligibility.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.11, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 29, eff. September 1, 2013.

Sec. 156.210. CONDITIONAL LICENSE. The commissioner may issue a conditional license. The finance commission by rule shall adopt reasonable terms and conditions for a conditional license.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 867, Sec. 91, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 25, eff. September 1, 2011.

Sec. 156.211. CHANGE OF ADDRESS OR SPONSORSHIP; MODIFICATION OF LICENSE. (a) Before the 10th day preceding the effective date of an address change, a residential mortgage loan company shall notify the commissioner in writing of the new address accompanied by a change of address fee of $25.

(b) When the sponsorship of a residential mortgage loan originator is terminated, the residential mortgage loan originator or the residential mortgage loan company shall immediately notify the commissioner.

(b-1) Not later than the 10th day before a residential mortgage loan company begins doing business under an assumed name, the residential mortgage loan company shall file with the commissioner a copy of an assumed name certificate for each assumed

name under which the residential mortgage loan company intends to conduct business and pay a $25 registration fee for each assumed name.

(b-2) A person licensed under this chapter must notify the commissioner not later than the 10th day after the date of any change of the person's name for the issuance of an amended license.

(b-3) A residential mortgage loan company licensed under this chapter that changes the company's qualifying individual shall notify the commissioner not later than the 10th business day after the date of the change. The commissioner may charge a fee of $25 for each change of a designated representative.

(c) A fee under this section is not refundable and may not be credited or applied to any other fee or indebtedness owed by the person paying the fee.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.12, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 905 (H.B. 2783), Sec. 8, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 26, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 30, eff. September 1, 2013.

Sec. 156.212. MAINTENANCE AND LOCATION OF OFFICES. If a residential mortgage loan company maintains an office separate and distinct from the company's main office, whether located in this state or not, that conducts mortgage business with consumers of this state or regarding residential real estate in this state, the company shall apply for, pay a fee of $50 for, and obtain an additional license to be known as a branch office license for each additional office to be maintained by the company.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 29, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 27, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 4, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 7(1), eff. September 1, 2021.

Sec. 156.213. MORTGAGE CALL REPORT. (a) Each licensed residential mortgage loan company shall file a mortgage call report with the commissioner or the commissioner's authorized designee on a form prescribed by the commissioner or authorized designee. The report:

(1) is a statement of condition of the residential mortgage loan company and the company's operations, including financial statements and production activity volumes;

(2) must include any other information required by the commissioner; and

(3) must be filed as frequently as required by the commissioner.

(b) Information contained in the mortgage call report related to residential mortgage loan origination volume or other trade information, including information used to determine statistical entries in the report related to loan origination volume, is confidential and may not be disclosed by the commissioner, the commissioner's authorized designee, or any other employee of the department.

Added by Acts 2001, 77th Leg., ch. 337, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 28, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 31, eff. September 1, 2013.

SUBCHAPTER D. LICENSE REVOCATION AND SUSPENSION AND OTHER ACTIONS AGAINST LICENSE HOLDER

Sec. 156.301. INSPECTIONS; INVESTIGATIONS. (a) The

commissioner may conduct inspections of a person licensed under this chapter or a residential mortgage loan originator who is licensed under Chapter 157 and sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter as the commissioner determines necessary to determine whether the person or the residential mortgage loan originator is complying with this chapter and applicable rules. The inspections may include inspection of the books, records, documents, operations, and facilities of the person or the residential mortgage loan originator and access to any documents required under rules adopted under this chapter. The commissioner may share evidence of criminal activity gathered during an inspection or investigation with any state or federal law enforcement agency.

(b) On the signed written complaint of a person, the commissioner shall investigate the actions and records of a person licensed under this chapter or a residential mortgage loan originator who is licensed under Chapter 157 and sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter if the complaint, or the complaint and documentary or other evidence presented in connection with the complaint, provides reasonable cause. The commissioner, before commencing an investigation, shall notify the residential mortgage loan company or the residential mortgage loan originator in writing of the complaint and that the commissioner intends to investigate the matter.

(c) For reasonable cause, the commissioner at any time may investigate a person licensed under this chapter or a residential mortgage loan originator who is licensed under Chapter 157 and sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter to determine whether the person or the residential mortgage loan originator is complying with this chapter and applicable rules.

(d) The commissioner may conduct an undercover or covert investigation only if the commissioner, after due consideration of the circumstances, determines that the investigation is necessary to prevent immediate harm and to carry out the purposes of this

chapter.

(e) The finance commission by rule shall provide guidelines to govern an inspection or an investigation, including rules to:

(1) determine the information and records to which the commissioner may demand access during an inspection or an investigation; and

(2) establish what constitutes reasonable cause for an investigation.

(f) Information obtained by the commissioner during an inspection or an investigation is confidential unless disclosure of the information is permitted or required by other law.

(g) The commissioner may share information gathered during an investigation or inspection with any state or federal agency.

(h) The commissioner may require reimbursement of expenses for each examiner for on-site examination or investigation of a license holder if records are located out of state or if the review is considered necessary beyond the routine examination process. The finance commission by rule shall set the maximum amount for the reimbursement of expenses authorized under this subsection.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 337, Sec. 10, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.13, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 15, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 30, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 33, eff. September 1, 2013.

Sec. 156.3011. ISSUANCE AND ENFORCEMENT OF SUBPOENA. (a) During an investigation, the commissioner may issue a subpoena that is addressed to a peace officer of this state or other person authorized by law to serve citation or perfect service. The

subpoena may require a person to give a deposition, produce documents, or both.

(b) If a person disobeys a subpoena or if a person appearing in a deposition in connection with the investigation refuses to testify, the commissioner may petition a district court in Travis County to issue an order requiring the person to obey the subpoena, testify, or produce documents relating to the matter. The court shall promptly set an application to enforce a subpoena issued under Subsection (a) for hearing and shall cause notice of the application and the hearing to be served upon the person to whom the subpoena is directed.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.14, eff. September 1, 2005.

Sec. 156.302. ADMINISTRATIVE PENALTY. (a) The commissioner, after notice and opportunity for hearing, may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The amount of the penalty may not exceed $25,000 for each violation. The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm to property caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(c) The enforcement of the penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the commissioner to contest the

affidavit as provided by those rules.

(d) The attorney general may sue to collect the penalty.

(e) An appeal of an administrative penalty under this section is considered to be a contested case under Chapter 2001, Government Code.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 337, Sec. 11, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 407, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 16, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 31, eff. September 1, 2011.

Sec. 156.303. DISCIPLINARY ACTION; CEASE AND DESIST ORDER. (a) The commissioner may order disciplinary action against a licensed or registered residential mortgage loan company when the commissioner, after notice and opportunity for hearing, has determined that the company:

(1) obtained a license or registration, including a renewal of a license or registration, under this chapter through a false or fraudulent representation or made a material misrepresentation in an application for a license or registration or for the renewal of a license or registration under this chapter;

(2) published or caused to be published an advertisement related to the business of a residential mortgage loan company that:

(A) is misleading;

(B) is likely to deceive the public;

(C) in any manner tends to create a misleading impression;

(D) fails to identify as a residential mortgage loan company the person causing the advertisement to be published; or

(E) violates federal or state law;

(3) while performing an act for which a license or registration under this chapter is required, engaged in conduct

that constitutes improper, fraudulent, or dishonest dealings;

(4) entered a plea of guilty or nolo contendere to, or is convicted of, a criminal offense that is a felony or that involves fraud or moral turpitude in a court of this or another state or in a federal court;

(5) failed to use a fee collected in advance of closing of a residential mortgage loan for a purpose for which the fee was paid;

(6) charged or received, directly or indirectly, a fee for assisting a mortgage applicant in obtaining a residential mortgage loan before all of the services that the person agreed to perform for the mortgage applicant are completed, and the proceeds of the residential mortgage loan have been disbursed to or on behalf of the mortgage applicant;

(7) failed within a reasonable time to honor a credit card charge back or a check issued to the commissioner after the commissioner has mailed a request for payment, including payment of any applicable fees, to the person's last known business address as reflected by the commissioner's records;

(8) paid compensation to a person who is not licensed, registered, or exempt under this chapter or Chapter 157 for acts for which a license or registration under this chapter or Chapter 157 is required;

(9) induced or attempted to induce a party to a contract to breach the contract so the person may make a residential mortgage loan;

(10) published or circulated an unjustified or unwarranted threat of legal proceedings in matters related to the person's actions or services as a residential mortgage loan company;

(11) established an association, by employment or otherwise, with a person not licensed, registered, or exempt under this chapter or Chapter 157 who was expected or required to act as a residential mortgage loan company or residential mortgage loan originator;

(12) aided, abetted, or conspired with a person to circumvent the requirements of this chapter or Subchapter D,

Chapter 157;

(13) acted in the dual capacity of a residential mortgage loan company and real estate broker, salesperson, or attorney in a transaction without the knowledge and written consent of the mortgage applicant or in violation of applicable requirements under federal law;

(14) discriminated against a prospective borrower on the basis of race, color, religion, sex, national origin, ancestry, familial status, or a disability;

(15) failed or refused on demand to:

(A) produce a document, book, or record concerning a residential mortgage loan transaction conducted by a residential mortgage loan originator for inspection by the commissioner or the commissioner's authorized personnel or representative;

(B) give the commissioner or the commissioner's authorized personnel or representative free access to the books or records relating to the person's business kept by an officer, agent, or employee of the person or any business entity through which the person conducts residential mortgage loan origination activities, including a subsidiary or holding company affiliate; or

(C) provide information requested by the commissioner as a result of a formal or informal complaint made to the commissioner;

(16) failed without just cause to surrender, on demand, a copy of a document or other instrument coming into the person's possession that was provided to the person by another person making the demand or that the person making the demand is under law entitled to receive;

(17) disregarded or violated this chapter, a rule adopted by the finance commission under this chapter, or an order issued by the commissioner under this chapter; or

(18) provided false information to the commissioner during the course of an investigation or inspection.

(a-1) The commissioner may also order disciplinary action after notice and opportunity for hearing against a licensed or registered residential mortgage loan company if the commissioner

becomes aware during the term of the license of any fact that would have been grounds for denial of an original license if the fact had been known by the commissioner on the date the license was issued.

(b) In addition to disciplinary action by the commissioner authorized under Subsection (a), the commissioner, if the commissioner has reasonable cause to believe that a person licensed under this chapter has or is about to violate this section, may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter.

(c) An order issued under Subsection (b) must contain a reasonably detailed statement of the facts on which the order is made. If a person against whom the order is made requests a hearing, the commissioner shall set and give notice of a hearing before the commissioner or a hearings officer. The hearing shall be governed by Chapter 2001, Government Code. Based on the findings of fact, conclusions of law, and recommendations of the hearings officer, the commissioner by order may find a violation has occurred or not occurred.

(d) If a hearing is not requested under Subsection (c) not later than the 30th day after the date on which an order is made, the order is considered final and not appealable.

(e) The commissioner, after giving notice and an opportunity for hearing, may impose against a person who violates a cease and desist order an administrative penalty in an amount not to exceed $1,000 for each day of the violation. In addition to any other remedy provided by law, the commissioner may institute in district court a suit for injunctive relief and to collect the administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this subsection.

(f) For purposes of Subsection (a), a person is considered convicted if a sentence is imposed on the person, the person receives community supervision, including deferred adjudication community supervision, or the court defers final disposition of the person's case.

(g) If a person fails to pay an administrative penalty that has become final or fails to comply with an order of the

commissioner that has become final, in addition to any other remedy provided under law the commissioner, on not less than 10 days' notice to the person, may without a prior hearing suspend the person's residential mortgage loan company license or registration. The suspension shall continue until the person has complied with the order or paid the administrative penalty. During the period of suspension, the person may not originate a residential mortgage loan and all compensation received by the person during the period of suspension is subject to forfeiture as provided by Section 156.406(b).

(h) An order of suspension under Subsection (g) may be appealed. An appeal is a contested case governed by Chapter 2001, Government Code. A hearing of an appeal of an order of suspension issued under Subsection (g) shall be held not later than the 30th day after the date of receipt of the notice of appeal. The appellant shall be provided at least three days' notice of the time and place of the hearing.

(i) An order revoking the license or registration of a residential mortgage loan company may provide that the person is prohibited, without obtaining prior written consent of the commissioner, from:

(1) engaging in the business of originating or making residential mortgage loans; or

(2) otherwise affiliating with a person for the purpose of engaging in the business of originating or making residential mortgage loans.

(j) The commissioner may, on not less than 10 days' notice to the person, suspend a person's license without a prior hearing under this chapter if an indictment or information is filed or returned alleging that the person committed a criminal offense involving fraud, theft, or dishonesty. The suspension continues until the criminal case is dismissed or the person is acquitted. A person may appeal the suspension in accordance with Subsection (h).

(k) The commissioner may, at the commissioner's discretion, rescind or vacate any previously issued order.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 867, Sec. 92, eff. Sept. 1,

2001; Acts 2003, 78th Leg., ch. 170, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.15, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 905 (H.B. 2783), Sec. 10, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 17, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 32, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 34, eff. September 1, 2013.

Sec. 156.304. FEE ASSESSMENT AND DISCLOSURE. (a) Before the completion of all services to be performed, a residential mortgage loan originator sponsored by and conducting business for a licensed or registered residential mortgage loan company under this chapter may charge and receive, unless prohibited by law, the following fees for services in assisting a mortgage applicant to obtain a residential mortgage loan:

(1) a fee to obtain a credit report;

(2) a fee for the appraisal of the real estate;

(3) a fee for processing a residential mortgage loan application;

(4) a fee for taking a residential mortgage loan application;

(5) a fee for automated underwriting;

(6) a fee for a courier service;

(7) a fee to issue a loan commitment; or

(8) subject to Subsection (b), a fee for locking in an interest rate.

(b) A residential mortgage loan originator may not charge or receive a fee for locking in an interest rate unless there is a written agreement signed by the mortgage applicant and residential mortgage loan originator that contains a statement of whether the fee to lock in the interest rate is refundable and, if so, the terms and conditions necessary to obtain the refund.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 33, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 35, eff. September 1, 2013.

Sec. 156.305. RESTITUTION. The commissioner may order a person to make restitution for any amount received by that person in violation of this chapter. A residential mortgage loan company may be required to make restitution for any amount received by a sponsored residential mortgage loan originator in violation of Chapter 157.

Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.16, eff. September 1, 2005.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 34, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 36, eff. September 1, 2013.

SUBCHAPTER E. HEARINGS; JUDICIAL REVIEW; CIVIL ACTIONS; UNLICENSED ACTIVITY

Sec. 156.401. HEARINGS AND JUDICIAL REVIEW. (a) The commissioner may employ an enforcement staff to investigate and prosecute complaints made against persons licensed under this chapter. The commissioner may employ a hearings officer to conduct hearings under this section. The commissioner may collect and deposit any court costs collected pursuant to a final order.

(b) If the commissioner proposes to suspend or revoke a license issued under this chapter or if the commissioner refuses to issue or renew a license to an applicant for a license or person requesting a renewal of a license under this chapter, the applicant or license holder is entitled to a hearing before the commissioner or a hearings officer who shall make a proposal for decision to the commissioner. The commissioner or hearings officer shall prescribe

the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(c) The commissioner or hearings officer may issue subpoenas for the attendance of witnesses and the production of records or documents. Process issued by the commissioner or hearings officer may extend to all parts of the state and may be served by any person designated by the commissioner or hearings officer.

(d) A person aggrieved by a ruling, order, or decision of the commissioner has the right to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

(e) The commissioner may, in the commissioner's discretion, rescind or vacate any previously issued revocation order.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 18, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 35, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 37, eff. September 1, 2013.

Sec. 156.402. CIVIL ACTIONS AND INJUNCTIVE RELIEF. (a) A mortgage applicant injured by a violation of this chapter may bring an action for recovery of actual monetary damages and reasonable attorney's fees and court costs.

(b) The commissioner, the attorney general, or a mortgage applicant may bring an action to enjoin a violation of this chapter.

(c) A remedy provided by this section is in addition to any other remedy provided by law.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Sec. 156.403. BURDEN OF PROOF TO ESTABLISH AN EXEMPTION. The burden of proving an exemption in a proceeding or action brought under this chapter is on the person claiming the benefit of the exemption.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Sec. 156.404. RELIANCE ON WRITTEN NOTICES FROM COMMISSIONER. A person does not violate this chapter with respect to an action taken or omission made in reliance on a written notice, written interpretation, or written report from the commissioner, unless a subsequent amendment to this chapter or a rule adopted under this chapter affects the commissioner's notice, interpretation, or report.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Sec. 156.406. UNLICENSED ACTIVITY. (a) A person, unless otherwise exempt, commits an offense if the person conducts regulated activities under this chapter without first obtaining a license or registration as required by Section 156.201, 156.2012, or 157.012, as applicable. An offense under this subsection is a Class B misdemeanor. A second or subsequent conviction for an offense under this subsection shall be punished as a Class A misdemeanor.

(b) A person who received money, or the equivalent of money, as a fee or profit because of or in consequence of the person acting as a residential mortgage loan originator without an active license or being exempt under this chapter is liable for damages in an amount that is not less than the amount of the fee or profit received and not to exceed three times the amount of the fee or profit received, as may be determined by the court. An aggrieved person may recover damages under this subsection in a court.

(c) If the commissioner has reasonable cause to believe that a person who is not licensed or exempt under this chapter has engaged, or is about to engage, in an act or practice for which a license is required under this chapter, the commissioner may issue without notice and hearing an order to cease and desist from continuing a particular action or an order to take affirmative action, or both, to enforce compliance with this chapter. The order shall contain a reasonably detailed statement of the facts on which the order is made. The order may assess an administrative penalty in an amount not to exceed $1,000 per day for each violation

and may require a person to pay to a mortgage applicant any compensation received by the person from the applicant in violation of this chapter. If a person against whom the order is made requests a hearing, the commissioner shall set and give notice of a hearing before the commissioner or a hearings officer. The hearing shall be governed by Chapter 2001, Government Code. An order under this subsection becomes final unless the person to whom the order is issued requests a hearing not later than the 30th day after the date the order is issued.

(d) If a hearing has not been requested under Subsection (c) not later than the 30th day after the date the order is made, the order is considered final and not appealable. The commissioner, after giving notice, may impose against a person who violates a cease and desist order, an administrative penalty in an amount not to exceed $1,000 for each day of a violation. In addition to any other remedy provided by law, the commissioner may institute in district court a suit for injunctive relief and to collect the administrative penalty. A bond is not required of the commissioner with respect to injunctive relief granted under this section. A penalty collected under this subsection shall be deposited in the recovery fund.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.17, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 37, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 38, eff. September 1, 2013.

SUBCHAPTER F. RECOVERY FUND

Sec. 156.501. RECOVERY FUND. (a) The commissioner shall establish, administer, and maintain a recovery fund as provided by Section 13.016 and this subchapter. The amounts received by the commissioner for deposit in the fund shall be held by the commissioner in trust for carrying out the purposes of the fund.

(b) Subject to this subsection and Section 156.502(b), the recovery fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a residential mortgage loan originator who was licensed under Chapter 157 when the act was committed. The use of the fund is limited to reimbursement for out-of-pocket losses caused by an act by a residential mortgage loan originator licensed under Chapter 157 that constitutes a violation of Section 157.024(a)(2), (3), (5), (7), (8), (9), (10), (13), (16), (17), or (18) or 156.304(b).

(b-1) Payments from the recovery fund may not be made to a lender who makes a residential mortgage loan originated by the residential mortgage loan originator or who acquires a residential mortgage loan originated by the residential mortgage loan originator.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 5

(c) Amounts in the recovery fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the prudent person standard described in Section 11b, Article VII, Texas Constitution, and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under this subsection if the investment will impair the necessary liquidity required to satisfy claims awarded under this subchapter.

Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 6

(c) Amounts in the recovery fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the prudent person standard described by Section 11b, Article VII, Texas Constitution, and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under this subsection if the investment will impair the necessary liquidity required to satisfy judgment payments awarded

under this subchapter.

(d) Repealed by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 9, and Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 7(2), eff. September 1, 2021.

(e) Payments from the recovery fund shall be reduced by the amount of any recovery from the residential mortgage loan originator or from any surety, insurer, or other person or entity making restitution to the applicant on behalf of the residential mortgage loan originator.

(f) Repealed by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 9, and Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 7(2), eff. September 1, 2021.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 6.18, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 19, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 38, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 40, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 5, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 9, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 6, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 7(2), eff. September 1, 2021.

Text of section as amended by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 6

Sec. 156.502. FUNDING. (a) On an application for an original license issued under Chapter 157, the applicant, in addition to paying the original application fee, shall pay a fee in the amount of $20. The fee shall be deposited in the recovery fund.

(a-1) All or any portion of the amount of a penalty that is collected by the commissioner under Sections 156.302, 156.303, 157.023, 157.024, 157.031, 158.105, and 180.202, as determined by the commissioner, may be deposited to the credit of the recovery fund at the end of each fiscal year.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 7(3), eff. September 1, 2021.

(b) If the balance remaining in the recovery fund at the end of a calendar year is more than $3.5 million, the amount of money in excess of that amount shall be remitted by the commissioner to the comptroller for deposit in the mortgage grant fund established under Subchapter G.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 20, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 21, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 29, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 39, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 41, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 6, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 963 (S.B. 1900), Sec. 7(3), eff. September 1, 2021.

Sec. 156.503. STATUTE OF LIMITATIONS. (a) An application for the recovery of actual damages from the recovery fund under Section 156.504 may not be filed after the fourth anniversary of the date of the alleged act or omission causing the actual damages or the date the act or omission should reasonably have been

discovered.

(b) This section does not apply to a subrogation claim brought by the commissioner for recovery of money paid out of the recovery fund.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 22, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 40, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 42, eff. September 1, 2013.

Sec. 156.504. PROCEDURE FOR RECOVERY. (a) To recover from the recovery fund, a residential mortgage loan applicant must file a written sworn application with the commissioner in the form prescribed by the commissioner, subject to Section 156.503. A person who knowingly makes a false statement in connection with applying for money out of the fund may be subject to criminal prosecution under Section 37.10, Penal Code.

(b) The residential mortgage loan applicant is required to show:

(1) that the applicant's claim is based on facts allowing recovery under Section 156.501; and

(2) that the applicant:

(A) is not a spouse of the licensed residential mortgage loan originator;

(B) is not a child, parent, grandchild, grandparent, or sibling, including relationships by adoption, of the licensed residential mortgage loan originator;

(C) is not a person sharing living quarters with the licensed residential mortgage loan originator or a current or former employer, employee, or associate of the licensed residential mortgage loan originator;

(D) is not a person who has aided, abetted, or participated other than as a victim with the licensed residential mortgage loan originator in any activity that is illegal under

Section 157.024(a)(2), (3), (5), (7), (8), (9), (10), (13), (16), (17), or (18) or 156.304(b), or is not the personal representative of a licensed residential mortgage loan originator; and

(E) is not licensed as a residential mortgage loan originator under Chapter 157 who is seeking to recover any compensation in the transaction or transactions for which the application for payment is made.

(c) On receipt of the verified application, the commissioner's staff shall:

(1) notify each appropriate license holder and the issuer of any surety bond issued in connection with their licenses; and

(2) investigate the application and issue a preliminary determination, giving the applicant, the license holder, and any surety an opportunity to resolve the matter by agreement or to dispute the preliminary determination.

(d) If the preliminary determination under Subsection (c)(2) is not otherwise resolved by agreement and is not disputed by written notice to the commissioner before the 31st day after the notification date, the preliminary determination automatically becomes final and the commissioner shall make payment from the recovery fund, subject to the limits of Section 156.505.

(e) If the preliminary determination under Subsection (c)(2) is disputed by the applicant, the license holder, or any surety by written notice to the commissioner before the 31st day after the notification date, the matter shall be set for a hearing governed by Chapter 2001, Government Code, and the hearing rules of the finance commission.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 23, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 41, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 43, eff. September 1, 2013.

Sec. 156.505. RECOVERY LIMITS. (a) A person entitled to receive payment out of the recovery fund is entitled to receive reimbursement of actual, out-of-pocket damages as provided by this section.

(b) A payment from the recovery fund may be made as provided by Section 156.504 and this section. A payment for claims:

(1) arising out of the same transaction, including interest, is limited in the aggregate to $25,000, regardless of the number of claimants; and

(2) against a single person licensed as a residential mortgage loan originator under Chapter 157 arising out of separate transactions, including interest, is limited in the aggregate to $50,000 until the fund has been reimbursed for all amounts paid.

(c) In the event there are concurrent claims under Subsections (b)(1) and (2) that exceed the amounts available under the recovery fund, the commissioner shall prorate recovery based on the amount of damage suffered by each claimant.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 24, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 42, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 44, eff. September 1, 2013.

Sec. 156.506. REVOCATION OR SUSPENSION OF LICENSE FOR PAYMENT FROM RECOVERY FUND. (a) The commissioner may revoke or suspend a license issued under Chapter 157 on proof that the commissioner has made a payment from the recovery fund of any amount toward satisfaction of a claim against a residential mortgage loan originator under Chapter 157.

(a-1) The commissioner may seek to collect from a residential mortgage loan originator the amount paid from the recovery fund on behalf of the residential mortgage loan originator and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement for

payments from the recovery fund, plus interest at the current legal rate until the amount has been repaid in full. Any amount, including interest, recovered by the commissioner shall be deposited to the credit of the fund.

(b) The commissioner may probate an order revoking or suspending a license under this section.

(c) A person on whose behalf payment was made from the recovery fund is not eligible to receive a new license or have a suspension lifted under this chapter or Chapter 157 until the person has repaid in full, plus interest at the current legal rate, the amount paid from the fund on the person's behalf and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement for payments from the fund.

(d) This section does not limit the authority of the commissioner to take disciplinary action against a residential mortgage loan originator for a violation of Chapter 157 or the rules adopted by the finance commission under that chapter. The repayment in full to the recovery fund of all obligations of a residential mortgage loan originator does not nullify or modify the effect of any other disciplinary proceeding brought under Chapter 157.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 867, Sec. 93, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 25, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 43, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 45, eff. September 1, 2013.

Sec. 156.507. SUBROGATION. When the commissioner has paid an applicant an amount from the recovery fund under Section 156.504, the commissioner is subrogated to all of the rights of the applicant to the extent of the amount paid. The applicant shall

assign all of the applicant's right, title, and interest in any subsequent judgment against the license holder, up to the amount paid by the commissioner. Any amount, including interest, recovered by the commissioner on the assignment shall be deposited to the credit of the fund.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 26, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 44, eff. September 1, 2011.

Sec. 156.508. FAILURE TO COMPLY WITH SUBCHAPTER OR RULE ADOPTED BY THE FINANCE COMMISSION. The failure of an applicant under Section 156.504 to comply with a provision of this subchapter relating to the recovery fund or with a rule adopted by the finance commission relating to the fund constitutes a waiver of any rights under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1254, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1317 (H.B. 2774), Sec. 27, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 44, eff. September 1, 2011.

SUBCHAPTER G. MORTGAGE GRANT FUND

Sec. 156.551. MORTGAGE GRANT FUND. (a) The commissioner shall establish, administer, and maintain a mortgage grant fund as provided by this subchapter. The amounts received by the commissioner for deposit in the fund shall be held by the commissioner in trust for carrying out the purposes of the fund.

(b) Subject to Subsection (c), all or any portion of the amount of a penalty that is collected by the commissioner under Sections 156.302, 156.303, 157.023, 157.024, 157.031, 158.105, and 180.202, as determined by the commissioner, may be deposited to the credit of the mortgage grant fund at the end of each fiscal year.

(c) The balance of the mortgage grant fund may not at any time exceed $300,000.

Added by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 7, eff. September 1, 2021.

Sec. 156.552. FUNDING. The mortgage grant fund consists of:

(1) penalties collected by the commissioner and deposited to the credit of the fund in accordance with Section 156.551(b); and

(2) excess amounts transferred from the recovery fund under Section 156.502(b).

Added by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 7, eff. September 1, 2021.

Sec. 156.553. MANAGEMENT OF FUND. (a) The commissioner, as manager of the mortgage grant fund, shall:

(1) subject to Subsection (b), invest and reinvest the assets of the fund;

(2) make disbursements from the fund in accordance with Section 156.554;

(3) advise the finance commission regarding the fund;

(4) maintain books and records for the fund as required by the finance commission; and

(5) appear at hearings or judicial proceedings related to the fund.

(b) Amounts in the mortgage grant fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the prudent person standard described in Section 11b, Article VII, Texas Constitution.

Added by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 7, eff. September 1, 2021.

Sec. 156.554. DISBURSEMENT FROM FUND. (a) The commissioner shall approve each disbursement from the mortgage grant fund, which must be for a purpose authorized by Subsection (b).

(b) The commissioner:

(1) may provide grants in an aggregate amount of not more than $100,000 each year to an auxiliary mortgage loan activity company or another nonprofit organization for the purposes of:

(A) providing to consumers financial education relating to mortgage loans; and

(B) providing to other nonprofit organizations training in order for those organizations to provide to consumers financial education relating to mortgage loans;

(2) shall make disbursements from the fund to pay claims made under Section 156.555 that meet the requirements for payment under that section; and

(3) may make disbursements from the fund to provide support for statewide financial education, activities, and programs specifically related to mortgage loans for consumers, including activities and programs described by Section 14.113(c).

Added by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 7, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 159 (S.B. 1371), Sec. 3, eff. September 1, 2023.

Sec. 156.555. PAYMENT OF CLAIMS FOR FRAUDULENT UNLICENSED ACTIVITY. (a) A residential mortgage loan applicant may make a claim on and receive payment from the mortgage grant fund for the recovery of the applicant's actual, out-of-pocket damages incurred because of fraud committed by an individual who acted as a residential mortgage loan originator but who did not hold the required license issued under Chapter 157 at the time the individual committed the fraudulent act.

(b) The eligibility and procedural requirements for a claim made under Section 156.504 and the statute of limitations under Section 156.503 apply to a residential mortgage loan applicant who makes a claim under this section.

(c) Payments made from the mortgage grant fund to a residential mortgage loan applicant under this section are subject to the limits provided by Section 156.505.

Added by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 7, eff. September 1, 2021.

Sec. 156.556. RULES. The finance commission shall adopt rules to administer this subchapter, including rules governing implementation of Section 156.554 that:

(1) ensure a grant awarded under that section is used for a public purpose described by that section; and

(2) provide a means of recovering money awarded that is not used in compliance with that section.

Added by Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 7, eff. September 1, 2021.