

**House Bill 10**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 180 to read as follows:

CHAPTER 180. RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 180.001. SHORT TITLE. This chapter may be cited as the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

Sec. 180.002. DEFINITIONS. In this chapter:

(1) "Clerical or support duties," following the receipt of an application from a consumer, includes:

(A) the receipt, collection, distribution, and analysis of information related to the processing or underwriting of a residential mortgage loan; and

(B) communication with a consumer to obtain information necessary to process or underwrite a loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling the consumer about residential mortgage loan rates or terms.

(2) "Credit union" means a state or federal credit union operating in this state.

(3) "Credit union subsidiary organization" means an agency, association, or company wholly or partly owned by a credit union that is designed primarily to serve or otherwise assist credit union operations. The term includes a credit union service organization authorized by:

(A) Section 124.351(a)(1);

(B) Credit Union Commission rule; or

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(C) Part 712 of the National Credit Union Administration's Rules and Regulations.

(4) "Depository institution" has the meaning assigned by Section 3, Federal Deposit Insurance Act (12 U.S.C. Section 1813). The term includes a credit union but does not include a credit union subsidiary organization.

(5) "Dwelling" has the meaning assigned by Section 103(v) of the Truth in Lending Act (15 U.S.C. Section 1602(v)).

(6) "Federal banking agency" means:

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Office of Thrift Supervision;

(D) the National Credit Union Administration;

(E) the Federal Deposit Insurance Corporation; or

(F) the successor of any of those agencies.

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

(8) "Immediate family member" means the spouse, child, sibling, parent, grandparent, or grandchild of an individual. The term includes a stepparent, stepchild, and stepsibling and a relationship established by adoption.

(9) "Individual" means a natural person.

(10) "License" means a license issued under the laws of this state to an individual acting as or engaged in the business of a residential mortgage loan originator.

(11) "Loan processor or underwriter" means an individual who performs clerical or support duties as an

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employee at the direction of and subject to the supervision and instruction of an individual licensed as a residential mortgage loan originator or exempt from licensure under Section 180.003.

(12) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of state residential mortgage loan originators.

(13) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

(14) "Person" means an individual, corporation, company, limited liability company, partnership, or association.

(15) "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including:

(A) acting as a real estate broker or salesperson for a buyer, seller, lessor, or lessee of real property;

(B) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(C) negotiating, on a party's behalf, any provision of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than a negotiation conducted in connection with providing financing with respect to such a transaction;

(D) engaging in an activity for which a person is required to be registered or licensed by the state as a real

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estate broker or salesperson; and  
(E) offering to engage in an activity described by  
Paragraphs (A) through (D) or to act in the same capacity  
as a person described by Paragraphs (A) through (D).  
(16) "Registered mortgage loan originator" means an  
individual who:  
(A) is a residential mortgage loan originator and is an  
employee of:  
(i) a depository institution;  
(ii) a subsidiary that is:  
(a) owned and controlled by a depository institution; and  
(b) regulated by a federal banking agency; or  
(iii) an institution regulated by the Farm Credit  
Administration; and  
(B) is registered with, and maintains a unique identifier  
through, the Nationwide Mortgage Licensing System and  
Registry.  
(17) "Regulatory official" means:  
(A) with respect to Subtitles A, F, and G of this title, the  
banking commissioner of Texas;  
(B) with respect to Chapters 156 and 157 except as  
provided by Paragraph (D), the savings and mortgage  
lending commissioner;  
(C) with respect to Chapters 342, 347, 348, and 351, the  
consumer credit commissioner; and  
(D) with respect to credit unions, to the examination,  
investigation, or inspection of employees of credit union  
subsidiary organizations licensed under Chapter 156, and  
to the enforcement of compliance with this chapter and  
Chapter 156 by those employees, the credit union

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consumer credit commissioner; and  
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commissioner.

(18) "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate.

(19) "Residential mortgage loan originator":

(A) means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates the terms of a residential mortgage loan; and

(B) does not include:

(i) an individual who performs solely administrative or clerical tasks on behalf of an individual licensed as a residential mortgage loan originator or exempt from licensure under Section 180.003, except as otherwise provided by Section 180.051;

(ii) an individual who performs only real estate brokerage activities and is licensed or registered by the state as a real estate broker or salesperson, unless the individual is compensated by:

(a) a lender, mortgage broker, or other residential mortgage loan originator; or

(b) an agent of a lender, mortgage broker, or other residential mortgage loan originator;

(iii) an individual licensed under Chapter 1201, Occupations Code, unless the individual is directly compensated for arranging financing for activities regulated under that chapter by:

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(18) "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate.

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(a) a lender, mortgage broker, or other residential mortgage loan originator; or  
(b) an agent of a lender, mortgage broker, or other residential mortgage loan originator;  
(iv) an individual who receives the same benefits from a financed transaction as the individual would receive if the transaction were a cash transaction; or  
(v) an individual who is involved solely in providing extensions of credit relating to timeshare plans, as defined by 11 U.S.C. Section 101(53D).  
(20) "Residential real estate" means real property located in this state on which a dwelling is constructed or intended to be constructed.  
(21) "Rulemaking authority" means:  
(A) the finance commission, except as provided by Paragraph (B); or  
(B) with respect to credit unions and the rulemaking authority granted by Section 15.4024, the Credit Union Commission.  
(22) "S.A.F.E. Mortgage Licensing Act" means the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).  
(23) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.  
Sec. 180.003. EXEMPTION. The following persons are exempt from this chapter:  
(1) a registered mortgage loan originator when acting for an entity described by Section 180.002(16)(A)(i), (ii), or (iii);

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(a) a lender, mortgage broker, or other residential mortgage loan originator; or  
(b) an agent of a lender, mortgage broker, or other residential mortgage loan originator;  
(iv) an individual who receives the same benefits from a financed transaction as the individual would receive if the transaction were a cash transaction; or  
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(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;  
(3) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by:  
(A) a lender, mortgage broker, or other residential mortgage loan originator; or  
(B) an agent of a lender, mortgage broker, or other residential mortgage loan originator;  
(4) an individual who:  
(A) is an exclusive agent of a registered financial services company;  
(B) is exempt from regulation under Chapter 156 as provided by Section 156.202(5); and  
(C) is individually enrolled as a registered mortgage loan originator with the Nationwide Mortgage Licensing System and Registry;  
(5) an individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as the individual's residence; and  
(6) a nonprofit organization 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.  
Sec. 180.004. ADMINISTRATIVE AUTHORITY. (a) A regulatory official has broad authority to administer, interpret, and enforce this chapter.

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(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;  
(3) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney:  
(A) takes a residential mortgage loan application; and  
(B) offers or negotiates the terms of a residential mortgage loan;  
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(A) is an exclusive agent of a registered financial services company;  
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Sec. 180.004. ADMINISTRATIVE AUTHORITY; RULEMAKING. (a) A regulatory official has broad authority to administer, interpret, and enforce this chapter.

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(b) A rulemaking authority has broad authority to adopt rules to implement this chapter to carry out the legislature's intent.

(c) This chapter does not limit the authority of a regulatory official to take disciplinary action against a license holder for a violation of this chapter or the rules adopted by the regulatory official under this chapter. A regulatory official has broad authority to investigate, revoke a license, and inform the proper authority when fraudulent conduct or a violation of this chapter occurs.  
Sec. 180.005. SEVERABILITY. The provisions of this chapter or applications of those provisions are severable as provided by Section 311.032(c), Government Code.  
[Sections 180.006-180.050 reserved for expansion]

SUBCHAPTER B. LICENSING AND REGISTRATION REQUIREMENTS

Sec. 180.051. STATE LICENSE REQUIRED; RENEWAL. (a) Unless exempted by Section 180.003, an individual may not engage in business as a residential mortgage loan originator with respect to a dwelling located in this state unless the individual:

- (1) is licensed to engage in that business under Chapter 156, 157, 342, 347, 348, or 351; and
- (2) complies with the requirements of this chapter.

(b) Unless exempted by Section 180.003, a loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent

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(b) The finance commission may implement rules necessary to comply with this chapter and 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).

(c) This chapter does not limit the authority of a regulatory official to take disciplinary action against a license holder for a violation of this chapter or the rules adopted by the regulatory official under this chapter. A regulatory official has broad authority to investigate, revoke a license, and inform the proper authority when fraudulent conduct or a violation of this chapter occurs.  
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contractor loan processor or underwriter obtains and maintains the appropriate residential mortgage loan originator license and complies with the requirements of this chapter.

(c) The individual must renew the license annually to be considered licensed for purposes of this section.

(d) Notwithstanding any provision of law listed in Subsection (a)(1), the regulatory official shall provide for annual renewal of licenses for individuals seeking to engage in residential mortgage loan origination activities.

Sec. 180.052. ENROLLMENT WITH NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. (a) A licensed residential mortgage loan originator must enroll with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(b) A non-federally insured credit union that employs loan originators, as defined by the S.A.F.E. Mortgage Licensing Act, shall enroll those employees with the Nationwide Mortgage Licensing System and Registry by furnishing the information relating to the employees' identity set forth in Section 1507(a)(2) of the S.A.F.E. Mortgage Licensing Act.

(c) Each independent contractor loan processor or underwriter licensed as a residential mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(d) The regulatory official who administers the law under which a residential mortgage loan originator is

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contractor loan processor or underwriter obtains and maintains the appropriate residential mortgage loan originator license and complies with the requirements of this chapter.

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(b) A non-federally insured credit union that employs loan originators, as defined by the S.A.F.E. Mortgage Licensing Act, shall register those employees with the Nationwide Mortgage Licensing System and Registry by furnishing the information relating to the employees' identity set forth in Section 1507(a)(2) of the S.A.F.E. Mortgage Licensing Act.

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licensed shall require the residential mortgage loan originator to be enrolled with the Nationwide Mortgage Licensing System and Registry.

(e) For purposes of implementing Subsection (d), the regulatory official may participate in the Nationwide Mortgage Licensing System and Registry.

Sec. 180.053. APPLICATION FORM. (a) A regulatory official shall prescribe application forms for a license as a residential mortgage loan originator.

(b) A regulatory official may change or update an application form as necessary to carry out the purposes of this chapter.

Sec. 180.054. CRIMINAL AND OTHER BACKGROUND CHECKS. (a) In connection with an application for a license as a residential mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the information to conduct a state, national, and international criminal background check; and

(2) personal history and experience information in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the appropriate regulatory

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(b) A regulatory official may change or update an application form as necessary to carry out the purposes of this chapter.

Sec. 180.054. CRIMINAL AND OTHER BACKGROUND CHECKS. (a) In connection with an application for a license as a residential mortgage loan originator, the applicant shall, at a minimum, furnish **in the form and manner prescribed by the regulatory official and acceptable** to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the information to conduct a state, national, and international criminal background check; and

(2) personal history and experience information in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the appropriate regulatory

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official to obtain:

(A) an independent credit report obtained from a consumer reporting agency described by Section 603(p), Fair Credit Reporting Act (15 U.S.C. Section 1681a(p)); and

(B) information related to any administrative, civil, or criminal findings by a governmental jurisdiction.

(b) For purposes of this section and to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of Subsection (a)(1), a regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency, or any source at the regulatory official's direction.

(c) For purposes of this section and to reduce the points of contact that a regulatory official may have to maintain for purposes of Subsection (a) or (b), the regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to and from any source as directed by the regulatory official.

Sec. 180.055. ISSUANCE OF LICENSE. (a) The regulatory official may not issue a residential mortgage loan originator license to an individual unless the regulatory official determines, at a minimum, that the applicant:

(1) has not had a residential mortgage loan originator license revoked in any governmental jurisdiction;

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(A) an independent credit report obtained from a consumer reporting agency described by Section 603(p), Fair Credit Reporting Act (15 U.S.C. Section 1681a(p)); and

(B) information related to any administrative, civil, or criminal findings by a governmental jurisdiction.

(b) For purposes of this section and to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of Subsection (a)(1), a regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency, or any source at the regulatory official's direction.

(c) For purposes of this section and to reduce the points of contact that a regulatory official may have to maintain for purposes of Subsection (a) or (b), the regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to and from any source as directed by the regulatory official.

Sec. 180.055. ISSUANCE OF LICENSE. (a) The regulatory official may not issue a residential mortgage loan originator license to an individual unless the regulatory official determines, at a minimum, that the applicant:

(1) has not had a residential mortgage loan originator license revoked in any governmental jurisdiction;

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(2) has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court;

(A) during the seven-year period preceding the date of application; or

(B) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

(3) demonstrates financial responsibility, character, and general fitness so as to command the confidence of the community and to warrant a determination that the individual will operate honestly, fairly, and efficiently as a residential mortgage loan originator within the purposes of this chapter and any other appropriate regulatory law of this state;

(4) provides satisfactory evidence that the applicant has completed prelicensing education courses described by Section 180.056;

(5) provides satisfactory evidence of having passed a written test that meets the requirements of Section 180.057; and

(6) has paid a recovery fund fee or obtained a surety bond as required under the appropriate state regulatory law.

(b) A revocation that has been formally vacated may not be considered a license revocation for purposes of Subsection (a)(1).

(c) A conviction for which a full pardon has been granted may not be considered a conviction for purposes of Subsection (a)(2).

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(2) has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court;

(A) during the seven-year period preceding the date of application; or

(B) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

(3) demonstrates financial responsibility, character, and general fitness so as to command the confidence of the community and to warrant a determination that the individual will operate honestly, fairly, and efficiently as a residential mortgage loan originator within the purposes of this chapter and any other appropriate regulatory law of this state;

(4) provides satisfactory evidence that the applicant has completed prelicensing education courses described by Section 180.056;

(5) provides satisfactory evidence of having passed a written test that meets the requirements of Section 180.057; and

(6) has paid a recovery fund fee or obtained a surety bond as required under the appropriate state regulatory law.

(b) A revocation that has been formally vacated may not be considered a license revocation for purposes of Subsection (a)(1).

(c) A conviction for which a full pardon has been granted may not be considered a conviction for purposes of Subsection (a)(2).

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(d) For purposes of Subsection (a)(3), an individual is considered not to be financially responsible if the individual has shown a lack of regard in managing the individual's own financial affairs or condition. A determination that an individual has not shown financial responsibility may include:

(1) an outstanding judgment against the individual, other than a judgment imposed solely as a result of medical expenses;

(2) an outstanding tax lien or other governmental liens and filings;

(3) a foreclosure during the three-year period preceding the date of the license application; and

(4) a pattern of seriously delinquent accounts during the three-year period preceding the date of the application.

Sec. 180.056. PRELICENSING EDUCATIONAL COURSES. (a) An applicant for a residential mortgage loan originator license must complete education courses that include, at a minimum, at least the minimum number of hours and type of courses required by the S.A.F.E. Mortgage Licensing Act and the minimum number of hours of training related to lending standards for the nontraditional mortgage product marketplace required by that Act.

(b) Education courses required under this section must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry in accordance with the S.A.F.E. Mortgage Licensing Act.

(c) Nothing in this section precludes any education course approved in accordance with the S.A.F.E.

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(d) For purposes of Subsection (a)(3), an individual is considered not to be financially responsible if the individual has shown a lack of regard in managing the individual's own financial affairs or condition. A determination that an individual has not shown financial responsibility may include:

(1) an outstanding judgment against the individual, other than a judgment imposed solely as a result of medical expenses;

(2) an outstanding tax lien or other governmental liens and filings;

(3) a foreclosure during the three-year period preceding the date of the license application; and

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Sec. 180.056. PRELICENSING EDUCATIONAL COURSES. (a) An applicant for a residential mortgage loan originator license must complete education courses that include, at a minimum, at least the minimum number of hours and type of courses required by the S.A.F.E. Mortgage Licensing Act and the minimum number of hours of training related to lending standards for the nontraditional mortgage product marketplace required by that Act.

(b) Education courses required under this section must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry in accordance with the S.A.F.E. Mortgage Licensing Act.

(c) Nothing in this section precludes any education course approved in accordance with the S.A.F.E.

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Mortgage Licensing Act from being provided by:

- (1) an applicant's employer;
  - (2) an entity affiliated with the applicant by an agency contract; or
  - (3) a subsidiary or affiliate of the employer or entity.
  - (d) Education courses required under this section may be offered in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.
  - (e) An individual who has successfully completed preclicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the preclicensing education requirements of this section.
  - (f) An applicant who has previously held a residential mortgage loan originator license that meets the requirements of this chapter and other appropriate regulatory law, before being issued a new original license, must demonstrate to the appropriate regulatory official that the applicant has completed all continuing education requirements for the calendar year in which the license was last held by the applicant.
  - (g) If the appropriate federal regulators and the Nationwide Mortgage Licensing System and Registry establish additional educational requirements for licensed residential mortgage loan originators, the rulemaking authority shall adopt necessary rules to implement the changes to the educational requirements of this section.
- Sec. 180.057. TESTING REQUIREMENTS. (a) An applicant for a residential mortgage loan originator

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Mortgage Licensing Act from being provided by:

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  - (2) an entity affiliated with the applicant by an agency contract; or
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  - (d) Education courses required under this section may be offered in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.
  - (e) An individual who has successfully completed preclicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the preclicensing education requirements of this section.
  - (f) An applicant who has previously held a residential mortgage loan originator license that meets the requirements of this chapter and other appropriate regulatory law, before being issued a new original license, must demonstrate to the appropriate regulatory official that the applicant has completed all continuing education requirements for the calendar year in which the license was last held by the applicant.
  - (g) If the appropriate federal regulators and the Nationwide Mortgage Licensing System and Registry establish additional educational requirements for licensed residential mortgage loan originators, the rulemaking authority shall adopt necessary rules to implement the changes to the educational requirements of this section.
- Sec. 180.057. TESTING REQUIREMENTS. (a) An applicant for a residential mortgage loan originator

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license must pass a qualified, written test that:

(1) meets the standards and requirements established by the S.A.F.E. Mortgage Licensing Act;

(2) is developed by the Nationwide Mortgage Licensing System and Registry; and

(3) is administered by a test provider in accordance with the S.A.F.E. Mortgage Licensing Act.

(b) An individual may retake the test the number of times and within the period prescribed by the S.A.F.E. Mortgage Licensing Act.

(c) An individual who fails to maintain a residential mortgage loan originator license for at least five consecutive years must retake the test.

(d) This section does not prohibit a test provider approved in accordance with the S.A.F.E. Mortgage Licensing Act from providing a test at the location of:

(1) the license applicant's employer;

(2) a subsidiary or affiliate of the applicant's employer;  
or

(3) an entity with which the applicant holds an exclusive arrangement to conduct the business of a residential mortgage loan originator.

Sec. 180.058. RECOVERY FUND FEE OR SURETY BOND REQUIREMENT. (a) A regulatory official may not issue a residential mortgage loan originator license unless the official determines that the applicant meets the surety bond requirement or has paid a recovery fund fee, as applicable, in accordance with the requirements of the S.A.F.E. Mortgage Licensing Act.

(b) Each regulatory official shall adopt rules requiring

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license must pass a qualified, written test that:

(1) meets the standards and requirements established by the S.A.F.E. Mortgage Licensing Act;

(2) is developed by the Nationwide Mortgage Licensing System and Registry; and

(3) is administered by a test provider in accordance with the S.A.F.E. Mortgage Licensing Act.

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(b) Each regulatory official shall adopt rules requiring

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an individual licensed as a residential mortgage loan originator to obtain a surety bond or pay a recovery fund fee as the official determines appropriate to comply with the S.A.F.E. Mortgage Licensing Act.

Sec. 180.059. STANDARDS FOR LICENSE RENEWAL. A license to act as a residential mortgage loan originator may be renewed on or before its expiration date if the license holder:

(1) continues to meet the minimum requirements for license issuance;

(2) pays all required fees for the renewal of the license; and

(3) provides satisfactory evidence that the license holder has completed the continuing education requirements of Section 180.060.

Sec. 180.060. CONTINUING EDUCATION COURSES. (a) To renew a residential mortgage loan originator license, a license holder must annually complete the minimum number of hours and type of continuing education courses required by the S.A.F.E. Mortgage Licensing Act, the minimum requirements established by the Nationwide Mortgage Licensing System and Registry, and any additional requirements established by the regulatory official.

(b) Continuing education courses, including the course provider, must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry as required by the S.A.F.E. Mortgage Licensing Act. Course credit must be granted in accordance with that Act.

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an individual licensed as a residential mortgage loan originator to obtain a surety bond or pay a recovery fund fee as the official determines appropriate to comply with the S.A.F.E. Mortgage Licensing Act.

Sec. 180.059. STANDARDS FOR LICENSE RENEWAL. A license to act as a residential mortgage loan originator may be renewed on or before its expiration date if the license holder:

(1) continues to meet the minimum requirements for license issuance;

(2) pays all required fees for the renewal of the license; and

(3) provides satisfactory evidence that the license holder has completed the continuing education requirements of Section 180.060.

Sec. 180.060. CONTINUING EDUCATION COURSES. (a) To renew a residential mortgage loan originator license, a license holder must annually complete the minimum number of hours and type of continuing education courses required by the S.A.F.E. Mortgage Licensing Act, the minimum requirements established by the Nationwide Mortgage Licensing System and Registry, and any additional requirements established by the regulatory official.

(b) Continuing education courses, including the course provider, must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry as required by the S.A.F.E. Mortgage Licensing Act. Course credit must be granted in accordance with that Act.

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(c) Nothing in this section precludes any continuing education course approved in accordance with the S.A.F.E. Mortgage Licensing Act from being provided by:

(1) the employer of the license holder;

(2) an entity affiliated with the license holder by an agency contract; or

(3) a subsidiary or affiliate of the employer or entity.

(d) A person who successfully completes continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the continuing education requirements of this section.

Sec. 180.061. RULEMAKING AUTHORITY. A rulemaking authority may adopt rules establishing requirements as necessary for:

(1) conducting background checks by obtaining:

(A) criminal history information through fingerprint or other databases;

(B) civil administrative records;

(C) credit history information; or

(D) any other information considered necessary by the Nationwide Mortgage Licensing System and Registry;

(2) payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;

(3) setting or resetting, as necessary, license renewal dates or reporting periods;

(4) amending or surrendering a license or any other activity a regulatory official considers necessary for

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(c) Nothing in this section precludes any continuing education course approved in accordance with the S.A.F.E. Mortgage Licensing Act from being provided by:

(1) the employer of the license holder;

(2) an entity affiliated with the license holder by an agency contract; or

(3) a subsidiary or affiliate of the employer or entity.

(d) A person who successfully completes continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the continuing education requirements of this section.

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(3) setting or resetting, as necessary, license renewal dates or reporting periods;

(4) amending or surrendering a license or any other activity a regulatory official considers necessary for

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participation in the Nationwide Mortgage Licensing System and Registry; and

(5) investigation and examination authority for purposes of investigating a violation or complaint arising under this chapter or for purposes of examining, reviewing, or investigating any license holder or individual subject to this chapter.

Sec. 180.062. CONFIDENTIALITY OF INFORMATION. (a) Except as otherwise provided by this section, a requirement under federal or state law regarding the privacy or confidentiality of information or material provided to the Nationwide Mortgage Licensing System and Registry, and a privilege arising under federal or state law, or under the rules of a federal or state court, continue to apply to the information or material after the disclosure of the information or material to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with federal and state regulatory officials with mortgage industry oversight authority without the loss of any privilege or confidentiality protections afforded by federal or state laws.

(b) Information or material subject to a privilege or confidential under Subsection (a) may not be subject to:

(1) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or this state; or

(2) subpoena, discovery, or admission into evidence in a private civil action or administrative proceeding.

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participation in the Nationwide Mortgage Licensing System and Registry; and

(5) investigation and examination authority for purposes of investigating a violation or complaint arising under this chapter or for purposes of examining, reviewing, or investigating any license holder or individual subject to this chapter.

Sec. 180.062. CONFIDENTIALITY OF INFORMATION. (a) Except as otherwise provided by this section, a requirement under federal or state law regarding the privacy or confidentiality of information or material provided to the Nationwide Mortgage Licensing System and Registry, and a privilege arising under federal or state law, or under the rules of a federal or state court, continue to apply to the information or material after the disclosure of the information or material to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with federal and state regulatory officials with mortgage industry oversight authority without the loss of any privilege or confidentiality protections afforded by federal or state laws.

(b) Information or material subject to a privilege or confidential under Subsection (a) may not be subject to:

(1) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or this state; or

(2) subpoena, discovery, or admission into evidence in a private civil action or administrative proceeding.

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(c) A person who is the subject of information or material in the Nationwide Mortgage Licensing System and Registry may waive, wholly or partly, any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material.

(d) A regulatory official may enter into an agreement or sharing arrangement with another governmental agency, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing appropriate governmental agencies as established by rule of the rulemaking authority or order issued by the regulatory official. A protection provided by Subsection (a) also applies to information and material shared under an agreement or sharing arrangement entered into under this subsection.

(e) To the extent of a conflict between Subsection (a) and Chapter 552, Government Code, or another state law relating to the disclosure of confidential information or information or material described by Subsection (a), Subsection (a) controls to the extent Chapter 552, Government Code, or the other law provides less confidentiality or a weaker privilege than is provided by Subsection (a).

(f) This section does not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a residential mortgage loan originator that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

[Sections 180.063-180.100 reserved for expansion]

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(c) A person who is the subject of information or material in the Nationwide Mortgage Licensing System and Registry may waive, wholly or partly, any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material.

(d) A regulatory official may enter into an agreement or sharing arrangement with another governmental agency, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing appropriate governmental agencies as established by rule of the rulemaking authority or order issued by the regulatory official. A protection provided by Subsection (a) also applies to information and material shared under an agreement or sharing arrangement entered into under this subsection.

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[Sections 180.063-180.100 reserved for expansion]

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<p><u>SUBCHAPTER C. REPORTING AND OTHER REQUIREMENTS REGARDING NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY</u></p> <p><u>Sec. 180.101. MORTGAGE CALL REPORTS.</u> Each licensed residential mortgage loan originator shall submit to the Nationwide Mortgage Licensing System and Registry a report of condition that is in the form and contains the information required by the Nationwide Mortgage Licensing System and Registry.</p> <p><u>Sec. 180.102. REPORT OF VIOLATIONS AND ENFORCEMENT ACTIONS.</u> Subject to the confidentiality provisions of this chapter, a regulatory official shall report to the Nationwide Mortgage Licensing System and Registry on a regular basis regarding violations of, enforcement actions under, or information relevant to this chapter or the S.A.F.E. Mortgage Licensing Act under the regulatory official's licensure, regulation, or examination of a licensed residential mortgage loan originator or person registered under the S.A.F.E. Mortgage Licensing Act.</p> <p><u>Sec. 180.103. INFORMATION CHALLENGE PROCESS.</u> The applicable rulemaking authority by rule shall establish a process by which licensed residential mortgage loan originators may dispute information submitted by the regulatory official to the Nationwide Mortgage Licensing System and Registry.</p> <p><u>[Sections 180.104-180.150 reserved for expansion]</u></p> <p><u>SUBCHAPTER D. BUSINESS PRACTICES; PROHIBITED ACTS</u></p> <p><u>Sec. 180.151. DISPLAY OF UNIQUE IDENTIFIER.</u></p>	<p><u>SUBCHAPTER C. REPORTING AND OTHER REQUIREMENTS REGARDING NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY</u></p> <p><u>Sec. 180.101. MORTGAGE CALL REPORTS.</u> Each licensed residential mortgage loan originator shall submit to the Nationwide Mortgage Licensing System and Registry a report of condition that is in the form and contains the information required by the Nationwide Mortgage Licensing System and Registry.</p> <p><u>Sec. 180.102. REPORT OF VIOLATIONS AND ENFORCEMENT ACTIONS.</u> Subject to the confidentiality provisions of this chapter, a regulatory official shall report to the Nationwide Mortgage Licensing System and Registry on a regular basis regarding violations of, enforcement actions under, or information relevant to this chapter or the S.A.F.E. Mortgage Licensing Act under the regulatory official's licensure, regulation, or examination of a licensed residential mortgage loan originator or person registered under the S.A.F.E. Mortgage Licensing Act.</p> <p><u>Sec. 180.103. INFORMATION CHALLENGE PROCESS.</u> The applicable rulemaking authority by rule shall establish a process by which licensed residential mortgage loan originators may dispute information submitted by the regulatory official to the Nationwide Mortgage Licensing System and Registry.</p> <p><u>[Sections 180.104-180.150 reserved for expansion]</u></p> <p><u>SUBCHAPTER D. BUSINESS PRACTICES; PROHIBITED ACTS</u></p> <p><u>Sec. 180.151. DISPLAY OF UNIQUE IDENTIFIER.</u></p>	

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The unique identifier of a person originating a residential mortgage loan must be clearly shown on each residential mortgage loan application form, solicitation, or advertisement, including business cards and websites, and any other document required by rule of the rulemaking authority.

Sec. 180.152. REPRESENTATIONS. An individual who is engaged exclusively in loan processor or underwriter activities may not represent to the public, through the use of advertising, business cards, stationery, brochures, signs, rate lists, or other means, that the individual can or will perform any of the activities of a residential mortgage loan originator unless the individual is licensed as a residential mortgage loan originator.

Sec. 180.153. PROHIBITED ACTS AND PRACTICES. An individual or other person subject to regulation under this chapter may not:

(1) employ, directly or indirectly, a scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud a person;

(2) engage in an unfair or deceptive practice toward a person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the individual or other person subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan was actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the

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(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the individual or other person subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan was actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the

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terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business regulated by this chapter without holding a license as required by this chapter;

(7) assist, aid, or abet an individual in the conduct of business without a license required by this chapter;

(8) fail to make disclosures as required by this chapter and any other applicable state or federal law, including rules or regulations under applicable state or federal law;

(9) fail to comply with this chapter or rules adopted under this chapter;

(10) fail to comply with any other state or federal law, including rules or regulations adopted under that law, applicable to a business or activity regulated by this chapter;

(11) make, in any manner, a false or deceptive statement or representation;

(12) negligently make a false statement or knowingly or wilfully make an omission of material fact in connection with:

(A) information or a report filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry; or

(B) an investigation conducted by the regulatory official or another governmental agency;

(13) make a payment, threat, or promise, directly or indirectly, to a person for purposes of influencing the person's independent judgment in connection with a residential mortgage loan, or make a payment, threat, or promise, directly or indirectly, to an appraiser of

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terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business regulated by this chapter without holding a license as required by this chapter;

(7) assist, aid, or abet an individual in the conduct of business without a license required by this chapter;

(8) fail to make disclosures as required by this chapter and any other applicable state or federal law, including rules or regulations under applicable state or federal law;

(9) fail to comply with this chapter or rules adopted under this chapter;

(10) fail to comply with any other state or federal law, including rules or regulations adopted under that law, applicable to a business or activity regulated by this chapter;

(11) make, in any manner, a false or deceptive statement or representation;

(12) negligently make a false statement or knowingly or wilfully make an omission of material fact in connection with:

(A) information or a report filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry; or

(B) an investigation conducted by the regulatory official or another governmental agency;

(13) make a payment, threat, or promise, directly or indirectly, to a person for purposes of influencing the person's independent judgment in connection with a residential mortgage loan, or make a payment, threat, or promise, directly or indirectly, to an appraiser of

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property, for purposes of influencing the appraiser's independent judgment with respect to the property's value;

(14) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(15) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(16) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

[Sections 180.154-180.200 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT PROVISIONS

Sec. 180.201. ENFORCEMENT AUTHORITY. To ensure the effective supervision and enforcement of this chapter, a regulatory official may:

(1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, a rule adopted under this chapter, or an order or directive issued under this chapter;

(2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or license holder:

(A) fails to meet the requirements of Subchapter B; or

(B) withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against a person subject to regulation under this chapter for a violation of this chapter;

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property, for purposes of influencing the appraiser's independent judgment with respect to the property's value;

(14) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(15) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(16) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

[Sections 180.154-180.200 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT PROVISIONS

Sec. 180.201. ENFORCEMENT AUTHORITY. To ensure the effective supervision and enforcement of this chapter, a regulatory official may:

(1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, a rule adopted under this chapter, or an order or directive issued under this chapter;

(2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or license holder:

(A) fails to meet the requirements of Subchapter B; or

(B) withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against a person subject to regulation under this chapter for a violation of this chapter;

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(4) impose an administrative penalty on a person subject to regulation under this chapter, subject to Section 180.202; or

(5) issue orders or directives as provided by Section 180.203.

Sec. 180.202. ADMINISTRATIVE PENALTY. (a) A regulatory official may impose an administrative penalty on a residential mortgage loan originator or other person subject to regulation under this chapter, if the official, after notice and opportunity for hearing, determines that the residential mortgage loan originator or other person subject to regulation under this chapter has violated or failed to comply with:

(1) this chapter;

(2) a rule adopted under this chapter; or

(3) an order issued under this chapter.

(b) The penalty may not exceed \$25,000 for each violation.

(c) The amount of the penalty 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.

Sec. 180.203. CEASE AND DESIST ORDERS. A regulatory official may:

(1) order or direct a person subject to regulation under

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(4) impose an administrative penalty on a person subject to regulation under this chapter, subject to Section 180.202; or

(5) issue orders or directives as provided by Section 180.203.

Sec. 180.202. ADMINISTRATIVE PENALTY. (a) A regulatory official may impose an administrative penalty on a residential mortgage loan originator or other person subject to regulation under this chapter, if the official, after notice and opportunity for hearing, determines that the residential mortgage loan originator or other person subject to regulation under this chapter has violated or failed to comply with:

(1) this chapter;

(2) a rule adopted under this chapter; or

(3) an order issued under this chapter.

(b) The penalty may not exceed \$25,000 for each violation.

(c) The amount of the penalty 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.

Sec. 180.203. CEASE AND DESIST ORDERS. A regulatory official may:

(1) order or direct a person subject to regulation under

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this chapter to cease and desist from conducting business, including issuing an immediate temporary order to cease and desist from conducting business;

(2) order or direct a person subject to regulation under this chapter to cease a violation of this chapter or a harmful activity in violation of this chapter, including issuing an immediate temporary order to cease and desist;

(3) enter immediate temporary orders against a person subject to regulation under this chapter to cease engaging in business under a license if the regulatory official determines that the license was erroneously granted or the license holder is in violation of this chapter; and

(4) order or direct other affirmative action as the regulatory official considers necessary.

[Sections 180.204-180.250 reserved for expansion]

SUBCHAPTER F. DUTIES OF REGULATORY OFFICIALS

Sec. 180.251. GENERAL DUTIES OF REGULATORY OFFICIALS. (a) Except as provided by Subsection (b), the savings and mortgage lending commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 156 or 157.

(b) The credit union commissioner shall:

(1) examine, inspect, or investigate employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators under Chapter 156; and

(2) enforce compliance by employees of credit union subsidiary organizations described by Subdivision (1)

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this chapter to cease and desist from conducting business, including issuing an immediate temporary order to cease and desist from conducting business;

(2) order or direct a person subject to regulation under this chapter to cease a violation of this chapter or a harmful activity in violation of this chapter, including issuing an immediate temporary order to cease and desist;

(3) enter immediate temporary orders against a person subject to regulation under this chapter to cease engaging in business under a license if the regulatory official determines that the license was erroneously granted or the license holder is in violation of this chapter; and

(4) order or direct other affirmative action as the regulatory official considers necessary.

[Sections 180.204-180.250 reserved for expansion]

SUBCHAPTER F. DUTIES OF REGULATORY OFFICIALS

Sec. 180.251. GENERAL DUTIES OF REGULATORY OFFICIALS. (a) Except as provided by Subsection (b), the savings and mortgage lending commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 156 or 157.

(b) The credit union commissioner shall:

(1) examine, inspect, or investigate employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators under Chapter 156; and

(2) enforce compliance by employees of credit union subsidiary organizations described by Subdivision (1)

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with the applicable requirements of Chapter 156 and this chapter and any applicable rules adopted under Section 15.4024.

(c) The consumer credit commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 342, 347, 348, or 351.

(d) To the extent permitted or required by this chapter and as reasonably necessary for the implementation and enforcement of the S.A.F.E. Mortgage Licensing Act, the banking commissioner of Texas may administer and enforce this chapter with respect to a person otherwise under the commissioner's jurisdiction under Subtitle A, F, or G of this title.

Sec. 180.252. AUTHORITY OF REGULATORY OFFICIALS TO ESTABLISH RELATIONSHIP WITH NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY; CONTRACTING AUTHORITY. To fulfill the purposes of this chapter, a regulatory official may establish a relationship with or contract with the Nationwide Mortgage Licensing System and Registry or an entity designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensed residential mortgage loan originators or other persons subject to regulation under this chapter.

SECTION 2. Section 14.107(b), Finance Code, is amended to read as follows:

(b) The finance commission by rule shall set the fees for

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with the applicable requirements of Chapter 156 and this chapter and any applicable rules adopted under Section 15.4024.

(c) The consumer credit commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 342, 347, 348, or 351.

(d) To the extent permitted or required by this chapter and as reasonably necessary for the implementation and enforcement of the S.A.F.E. Mortgage Licensing Act, the banking commissioner of Texas may administer and enforce this chapter with respect to a person otherwise under the commissioner's jurisdiction under Subtitle A, F, or G of this title.

Sec. 180.252. AUTHORITY OF REGULATORY OFFICIALS TO ESTABLISH RELATIONSHIP WITH NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY; CONTRACTING AUTHORITY. To fulfill the purposes of this chapter, a regulatory official may establish a relationship with or contract with the Nationwide Mortgage Licensing System and Registry or an entity designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensed residential mortgage loan originators or other persons subject to regulation under this chapter.

Same as House version.

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licensing and examination under Chapter 342, 347, 348, 351, or 371 at amounts or rates necessary to recover the costs of administering those chapters. The rules may provide that the amount of a fee charged to a license holder is based on the volume of the license holder's regulated business and other key factors. The commissioner may provide for collection of a single annual fee from a person licensed under Chapter 342, 347, 348, 351, or 371 to include amounts due for both licensing and examination.

SECTION 3. Subchapter E, Chapter 15, Finance Code, is amended by adding Section 15.4024 to read as follows:

Sec. 15.4024. RULES RELATING TO CERTAIN EMPLOYEES OF CREDIT UNION SUBSIDIARY ORGANIZATIONS. (a) In this section, "credit union subsidiary organization" has the meaning assigned by Section 180.002.

(b) The commission may adopt and enforce rules necessary for the commissioner to:

(1) examine, inspect, or investigate employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators under Chapter 156; and

(2) enforce compliance by employees of credit union subsidiary organizations described by Subdivision (1) with the applicable requirements of Chapters 156 and 180.

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SECTION 4. Section 156.101, Finance Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (a-2), the ~~[The]~~ commissioner shall administer this chapter.

(a-1) The commissioner shall perform all duties relating to the issuance and renewal of licenses under Section 156.2015 for employees of credit union subsidiary organizations who act as residential mortgage loan originators.

(a-2) The credit union commissioner is responsible for:

(1) the examination, inspection, or investigation of employees of credit union subsidiary organizations who are licensed to act as residential mortgage loan originators under this chapter; and

(2) the enforcement of compliance by employees of credit union subsidiary organizations described by Subdivision (1) with the applicable requirements of this chapter and Chapter 180.

Same as House version.

SECTION 5. Section 156.102(a), Finance Code, is amended to read as follows:

(a) The finance commission may adopt and enforce rules necessary for the intent of or to ensure compliance with this chapter, except as provided by Section 15.4024 with respect to employees of credit union subsidiary organizations subject to regulation under Section

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156.2015.

SECTION 6. Subchapter C, Chapter 156, Finance Code, is amended by adding Section 156.2015 to read as follows:

Sec. 156.2015. RESIDENTIAL MORTGAGE LOAN ORIGINATION ACTIVITIES. (a) In this section, "credit union subsidiary organization," "Nationwide Mortgage Licensing System and Registry," and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) An individual required to be licensed under this chapter may not act as a residential mortgage loan originator unless:

(1) the individual's license under this chapter otherwise authorizes the individual to act as a residential mortgage loan originator;

(2) the individual is enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) the individual complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) An employee of a credit union subsidiary organization may not act as a residential mortgage loan originator unless the employee:

(1) is licensed under this chapter;

(2) is enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

SECTION 6. Subchapter C, Chapter 156, Finance Code, is amended by adding Section 156.2015 to read as follows:

Sec. 156.2015. RESIDENTIAL MORTGAGE LOAN ORIGINATION ACTIVITIES. (a) In this section, "credit union subsidiary organization," "Nationwide Mortgage Licensing System and Registry," and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) An individual required to be licensed under this chapter may not act as a residential mortgage loan originator unless:

(1) the individual's license under this chapter otherwise authorizes the individual to act as a residential mortgage loan originator;

(2) the individual is enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) the individual complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) An employee of a credit union subsidiary organization may not act as a residential mortgage loan originator unless the employee:

(1) is licensed under this chapter;

(2) is enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

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(3) complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(d) The finance commission by rule may waive or modify, wholly or partly, any requirement of this chapter and establish new requirements as reasonably necessary to enable the commissioner to participate in and individuals to register through the Nationwide Mortgage Licensing System and Registry for purposes of this section and Chapter 180.

SECTION 7. Sections 156.214(b) and (f), Finance Code, as added by Chapter 228 (H.B. 1716), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(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(1)(A) or (B) and chartered and regulated by the Office of Thrift Supervision or the Office of the Comptroller of the Currency, or be a subsidiary ~~or affiliate~~ of the institution;

(2) provide the commissioner with satisfactory evidence of an undertaking of accountability in a form acceptable to the commissioner, supported by a surety bond equal to \$1 million to cover the person's responsibility for mortgage broker activities of each exclusive agent;

(3) provide a business plan satisfactory to the commissioner that sets forth the person's plan to provide education to its exclusive agents, handle consumer

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(3) complies with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(d) 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).

Same as House version.

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complaints relating to its exclusive agents, and supervise the mortgage origination ~~[broker]~~ activities of its exclusive agents;

(4) pay an annual registration fee of the lesser of:

(A) one-half of the license fee for a loan officer under Section 156.203(c)(1), multiplied by the number of exclusive agents under contract to act for the person in this state; or

(B) \$200,000; and

(5) designate an officer of the person to be responsible for the activities of the exclusive agents.

(f) Prior to permitting an exclusive agent to solicit, process, negotiate, or place a mortgage loan, the registered financial services company shall submit to the commissioner such information as the commissioner may require relating to the exclusive agent, and the exclusive agent must have enrolled with the Nationwide Mortgage Licensing System and Registry as a registered residential mortgage loan originator and provided to the commissioner the exclusive agent's unique identifier. In this subsection, "Nationwide Mortgage Licensing System and Registry," "residential mortgage loan originator," and "unique identifier" have the meanings assigned by Section 180.002 ~~[person together with a fingerprint imprint of the person. The commissioner shall obtain criminal history record information as provided in Section 156.206(b). The commissioner may assess a fee in an amount determined by the finance commission to cover the cost of the criminal background check. This section does not apply to a person who is licensed as a~~

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~~mortgage broker or loan officer under Chapter 156 at the time he becomes an exclusive agent of a registered financial services company].~~

SECTION 8. Chapter 157, Finance Code, is amended by adding Section 157.0035 to read as follows:

Sec. 157.0035. **RESIDENTIAL MORTGAGE LOAN ORIGINATION ACTIVITIES.** (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) **An individual originating a residential mortgage loan on behalf of an entity subject to regulation under this chapter** may not act **as** a residential mortgage loan originator unless the **individual**:

(1) is licensed and enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(2) complies with other applicable requirements of Chapter 180 and rules adopted by the finance commission under that chapter.

(c) **The finance commission by rule may waive or modify, wholly or partly, any requirement of this chapter and may establish new requirements as reasonably necessary to enable the commissioner to participate in and individuals to enroll with the Nationwide Mortgage Licensing System and Registry for purposes of this section and Chapter 180.**

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SECTION 8. Chapter 157, Finance Code, is amended by adding Section 157.012 to read as follows:

Sec. 157.012. **LICENSE REQUIRED FOR CERTAIN EMPLOYEES OF MORTGAGE BANKERS.** (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) **An employee of a mortgage banker** may not act **in the capacity of** a residential mortgage loan originator unless the **employee**:

(1) is licensed **under this chapter** and enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(2) complies with other applicable requirements of Chapter 180 and rules adopted by the finance commission under that chapter.

(c) **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).**

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(d) To be eligible to be licensed as a residential mortgage loan originator, an employee of a mortgage banker, in addition to the requirements of Subsection (b), must:  
(1) satisfy the commissioner as to the employee's good moral character, including the employee's honesty, trustworthiness, and integrity;  
(2) not be in violation of this chapter or a rule adopted under this chapter; and  
(3) provide the commissioner with satisfactory evidence that the employee meets the qualifications provided by Chapter 180.

SECTION 9. Chapter 341, Finance Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. STATE-LICENSED RESIDENTIAL MORTGAGE LOAN ORIGINATOR RECOVERY FUND

Sec. 341.601. DEFINITION. In this subchapter, "fund" means the state-licensed residential mortgage loan originator recovery fund.

Sec. 341.602. STATE-LICENSED RESIDENTIAL MORTGAGE LOAN ORIGINATOR RECOVERY FUND. (a) The commissioner under Chapter 180 shall establish, administer, and maintain a state-licensed residential mortgage loan originator recovery 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

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the fund.

(b) Subject to this subsection, the fund shall be used to reimburse residential mortgage loan applicants for actual damages incurred because of acts committed by a state-licensed residential mortgage loan originator who was licensed under Chapter 342, 347, 348, or 351 when the act was committed. The use of the fund is limited to reimbursement for out-of-pocket losses caused by an act that constitutes a violation of Chapter 180 or this subtitle. Payments from the fund may not be made to a lender who makes a residential mortgage loan originated by the state-licensed residential mortgage loan originator or who acquires a residential mortgage loan originated by the state-licensed residential mortgage loan originator.

(c) The fund may be used at the discretion of the commissioner to reimburse expenses incurred to secure and destroy residential mortgage loan documents that have been abandoned by a current or former state-licensed residential mortgage loan originator under the regulatory authority of the agency.

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

(e) The commissioner, as manager of the fund, is entitled to reimbursement for reasonable and necessary costs and expenses incurred in the management of the fund, including costs and expenses incurred with regard to applications filed under Section 341.605.

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(f) Amounts in the fund may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from those 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 payment of judgments awarded under this subchapter.

Sec. 341.603. FUNDING. (a) An applicant for an original residential mortgage loan originator license issued under Chapter 342, 347, 348, or 351 or for renewal of a residential mortgage loan originator license issued under Chapter 342, 347, 348, or 351 shall, in addition to paying the original application fee or renewal fee, pay a fee in an amount determined by the commissioner. The fee shall be deposited in the fund.

(b) If the balance remaining in the fund at the end of a calendar year is more than \$2.5 million, the amount of money in excess of that amount shall be available to the commissioner to offset the expenses of participating in and sharing information with the Nationwide Mortgage Licensing System and Registry in accordance with Chapter 180.

Sec. 341.604. STATUTE OF LIMITATIONS. (a) An application for the recovery of actual damages from the fund under Section 341.605 may not be filed after the second 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

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brought by the commissioner for recovery of money paid out of the fund.

Sec. 341.605. PROCEDURE FOR RECOVERY. (a) To recover from the fund, a residential mortgage loan applicant must file a written sworn application with the commissioner in the form prescribed by the commissioner. 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 341.602; and

(2) that the applicant:

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

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

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

(D) is not a person who has aided, abetted, or participated other than as a victim with the state-licensed residential mortgage loan originator in any activity that is illegal under this subtitle or Chapter 180 or is not the personal representative of a state-licensed residential mortgage loan originator; and

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(E) is not licensed as a state-licensed residential mortgage loan originator 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 fund, subject to the limits of Section 341.606.

(e) If the preliminary determination under Subsection (c)(2) is disputed by the applicant, 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.

Sec. 341.606. RECOVERY LIMITS. (a) A person entitled to receive payment out of the fund is entitled to receive reimbursement of actual, out-of-pocket damages as provided by this section.

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(b) A payment from the fund may be made as provided by Section 341.605 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 342, 347, 348, or 351 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 fund, the commissioner shall prorate recovery based on the amount of damage suffered by each claimant.

Sec. 341.607. REVOCATION OF LICENSE FOR PAYMENT FROM FUND. (a) The commissioner may revoke a residential mortgage loan originator license issued under this subtitle on proof that the commissioner has made a payment from the fund of any amount toward satisfaction of a claim against a state-licensed residential mortgage loan originator under this subchapter.

(b) The commissioner may seek to collect from a state-licensed residential mortgage loan originator the amount paid from the fund on behalf of the originator and any costs associated with investigating and processing the claim against the fund or with collection of reimbursement for payments from the fund, plus interest at the current legal rate until the amount has been repaid in full. Any amount, including interest, recovered by the

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commissioner shall be deposited to the credit of the fund.  
(c) The commissioner may probate an order revoking a  
license under this section.

(d) A state-licensed residential mortgage loan originator  
on whose behalf payment was made from the fund is not  
eligible to receive a new license until the originator has  
repaid in full, plus interest at the current legal rate, the  
amount paid from the fund on the originator's behalf and  
any costs associated with investigating and processing  
the claim against the fund or with collection of  
reimbursement from the fund.

(e) This section does not limit the authority of the  
commissioner to take disciplinary action against a state-  
licensed residential mortgage loan originator for a  
violation of the chapter under which the license was  
issued or the rules adopted by the finance commission  
under that chapter. The repayment in full to the fund of  
all obligations of a state-licensed residential mortgage  
loan originator does not nullify or modify the effect of  
any other disciplinary proceeding.

Sec. 341.608. SUBROGATION. When the  
commissioner has paid an applicant an amount from the  
fund under Section 341.605, the commissioner is  
subrogated to all of the rights of the applicant to the  
extent of the amount paid. The applicant shall assign the  
applicant's right, title, and interest in any subsequent  
judgment against the state-licensed residential mortgage  
loan originator up to the amount paid by the  
commissioner. Any amount, including interest,  
recovered by the commissioner on the assignment shall

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be deposited to the credit of the fund.

Sec. 341.609. FAILURE TO COMPLY WITH SUBCHAPTER OR RULE ADOPTED BY FINANCE COMMISSION. The failure of an applicant under Section 341.605 to comply with a provision of this subchapter or a rule adopted by the finance commission relating to the fund constitutes a waiver of any rights under this subchapter.

Sec. 341.610. RULEMAKING. The finance commission may adopt rules on the commissioner's recommendation to promote a fair and orderly administration of the fund consistent with the purposes of this subchapter.

SECTION 10. Subchapter B, Chapter 342, Finance Code, is amended by adding Section 342.0515 to read as follows:

Sec. 342.0515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR ACTIVITIES. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a loan subject to this chapter must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing

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SECTION 10. Subchapter B, Chapter 342, Finance Code, is amended by adding Section 342.0515 to read as follows:

Sec. 342.0515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR ACTIVITIES. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a loan subject to this chapter must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing

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System and Registry as required by Section 180.052; and  
(3) comply with other applicable requirements of  
Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules  
establishing procedures for issuing, renewing, and  
enforcing an individual license under this section. In  
adopting rules under this subsection, the finance  
commission shall ensure that:

(1) the minimum eligibility requirements for issuance of  
an individual license are the same as the requirements of  
Section 180.055;

(2) the minimum eligibility requirements for renewal of  
an individual license are the same as the requirements of  
Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount  
determined by the commissioner; and

(B) an annual license fee in an amount determined as  
provided by Section 14.107.

(d) The finance commission by rule may waive or  
modify, wholly or partly, any requirement of this chapter  
and establish new requirements as reasonably necessary  
to enable the commissioner to participate in the  
Nationwide Mortgage Licensing System and Registry for  
purposes of this section and Chapter 180.

SECTION 11. Section 342.156, Finance Code, is  
amended to read as follows:

Sec. 342.156. LICENSE SUSPENSION OR

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System and Registry as required by Section 180.052; and  
(3) comply with other applicable requirements of  
Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules  
establishing procedures for issuing, renewing, and  
enforcing an individual license under this section. In  
adopting rules under this subsection, the finance  
commission shall ensure that:

(1) the minimum eligibility requirements for issuance of  
an individual license are the same as the requirements of  
Section 180.055;

(2) the minimum eligibility requirements for renewal of  
an individual license are the same as the requirements of  
Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount  
determined by the commissioner; and

(B) an annual license fee in an amount determined as  
provided by Section 14.107.

(d) 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).

Same as House version.

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<p>REVOCATION. After notice and a hearing the commissioner may suspend or revoke a license if the commissioner finds that:</p> <p>(1) the license holder failed to pay the annual license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner under this chapter;</p> <p>(2) the license holder, knowingly or without the exercise of due care, violated this chapter or a rule adopted or order issued under this chapter; <del>[or]</del></p> <p>(3) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner's denial of the application; <u>or</u></p> <p><u>(4) the license holder has failed to ensure that an individual acting as a residential mortgage loan originator, as defined by Section 180.002, in the making, transacting, or negotiating of a loan subject to this chapter is licensed under this chapter in accordance with Section 342.0515.</u></p>		
<p>SECTION 12. The heading to Subchapter J, Chapter 347, Finance Code, is amended to read as follows:</p> <p>SUBCHAPTER J. RIGHTS AND DUTIES OF CREDITOR <u>AND RESIDENTIAL MORTGAGE LOAN ORIGINATOR</u></p>	<p>Same as House version.</p>	
<p>SECTION 13. Section 347.451, Finance Code, is amended by adding Subsection (b-1) to read as follows:</p>	<p>Same as House version.</p>	

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(b-1) A registered creditor that engages in the activity of originating a residential mortgage loan must meet the surety bond or recovery fund fee requirement, as applicable, of the creditor's residential mortgage loan originator under Section 180.058.

SECTION 14. Subchapter J, Chapter 347, Finance Code, is amended by adding Section 347.4515 to read as follows:

Sec. 347.4515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of an extension of credit subject to this chapter must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

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SECTION 14. Subchapter J, Chapter 347, Finance Code, is amended by adding Section 347.4515 to read as follows:

Sec. 347.4515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of an extension of credit subject to this chapter must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

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(1) the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;  
(2) the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and  
(3) the applicant pays:  
(A) an investigation fee in a reasonable amount determined by the commissioner; and  
(B) an annual license fee in an amount determined as provided by Section 14.107.  
(d) The finance commission by rule may waive or modify, wholly or partly, any requirement of this chapter and establish new requirements as reasonably necessary to enable the commissioner to participate in the Nationwide Mortgage Licensing System and Registry for purposes of this section and Chapter 180.

SECTION 15. Section 348.501, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) A license holder under this chapter who engages in the sale of a motor vehicle to be used as a principal dwelling must meet the surety bond or recovery fund fee requirements, as applicable, of the holder's residential mortgage loan originator under Section 180.058.

SECTION 16. Subchapter F, Chapter 348, Finance Code, is amended by adding Section 348.5015 to read as

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(1) the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;  
(2) the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and  
(3) the applicant pays:  
(A) an investigation fee in a reasonable amount determined by the commissioner; and  
(B) an annual license fee in an amount determined as provided by Section 14.107.  
(d) 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).

Same as House version.

SECTION 16. Subchapter F, Chapter 348, Finance Code, is amended by adding Section 348.5015 to read as

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follows:

Sec. 348.5015. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the sale of a motor vehicle to be used as a principal dwelling must:

(1) be licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for applying for issuing, renewing, and enforcing a license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of a license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of a license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

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follows:

Sec. 348.5015. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the sale of a motor vehicle to be used as a principal dwelling must:

(1) be licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules establishing procedures for applying for issuing, renewing, and enforcing a license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of a license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of a license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

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(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) The finance commission by rule may waive or modify, wholly or partly, any requirement of this chapter and establish new requirements as reasonably necessary to enable the commissioner to participate in the Nationwide Mortgage Licensing System and Registry for purposes of this section and Chapter 180.

SECTION 17. Subchapter B, Chapter 351, Finance Code, as added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 351.0515 to read as follows:

Sec. 351.0515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a property tax loan for a principal dwelling must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules

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(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) 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).

SECTION 17. Subchapter B, Chapter 351, Finance Code, as added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Section 351.0515 to read as follows:

Sec. 351.0515. RESIDENTIAL MORTGAGE LOAN ORIGINATOR LICENSE REQUIRED. (a) In this section, "Nationwide Mortgage Licensing System and Registry" and "residential mortgage loan originator" have the meanings assigned by Section 180.002.

(b) Unless exempt under Section 180.003, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a property tax loan for a principal dwelling must:

(1) be individually licensed to engage in that activity under this chapter;

(2) be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3) comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

(c) The finance commission shall adopt rules

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establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) The finance commission by rule may waive or modify, wholly or partly, any requirement of this chapter and establish new requirements as reasonably necessary to enable the commissioner to participate in the Nationwide Mortgage Licensing System and Registry for purposes of this section and Chapter 180.

SECTION 18. Section 351.102, Finance Code, as added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular Session, 2007, is amended by adding Subsection (e) to read as follows:

(e) A license holder engaged in the business of making, transacting, or negotiating a property tax loan for a principal dwelling must meet the surety bond or recovery

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establishing procedures for issuing, renewing, and enforcing an individual license under this section. In adopting rules under this subsection, the finance commission shall ensure that:

(1) the minimum eligibility requirements for issuance of an individual license are the same as the requirements of Section 180.055;

(2) the minimum eligibility requirements for renewal of an individual license are the same as the requirements of Section 180.059; and

(3) the applicant pays:

(A) an investigation fee in a reasonable amount determined by the commissioner; and

(B) an annual license fee in an amount determined as provided by Section 14.107.

(d) 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).

Same as House version.

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fund fee requirement, as applicable, of the holder's residential mortgage loan originator under Section 180.058.

SECTION 19. Section 351.156, Finance Code, as added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 351.156. LICENSE SUSPENSION OR REVOCATION. After notice and a hearing the commissioner may suspend or revoke a license if the commissioner finds that:

(1) the license holder failed to pay the annual license fee, an examination fee, an investigation fee, or another charge imposed by the commissioner under this chapter;

(2) the license holder, knowingly or without the exercise of due care, violated this chapter or Section 32.06 or 32.065, Tax Code, or a rule adopted or an order issued under this chapter or Section 32.06 or 32.065, Tax Code; [Ø]

(3) a fact or condition exists that, if it had existed or had been known to exist at the time of the original application for the license, clearly would have justified the commissioner's denial of the application; or

(4) the license holder has failed to ensure that an individual acting as a residential mortgage loan originator, as defined by Section 180.002, in the making, transacting, or negotiating of a property tax loan for a principal dwelling is licensed under this chapter in

Same as House version.



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accordance with Section 351.0515.

SECTION 20. Section 411.095, Government Code, is amended to read as follows:

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. ~~[(a)]~~ The consumer credit commissioner is entitled to obtain from the department criminal history record information that relates to a person who is an applicant for or holder of a license under Chapter 342, 347, 348, 351, or 371, Finance Code.

No equivalent provision.

Same as House version.

SECTION 21. Section 411.1385, Government Code, is amended to read as follows:

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING COMMISSIONER. (a) The savings and mortgage lending commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for or holder of a ~~[mortgage broker or loan officer]~~ license issued under Chapter 156 or 157, Finance Code.

(b) Criminal history record information obtained by the savings and mortgage lending commissioner under Subsection (a) with respect to the issuance of a license under Chapter 156, Finance Code, may be released or disclosed only as provided by Section 156.206, Finance

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Code.

SECTION 22. Same as House version.

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SECTION 21. For purposes of implementing an orderly and efficient process for licensing and registering residential mortgage loan originators that meets the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289), Chapter 180, Finance Code, as added by this Act, Section 15.4024, Finance Code, as added by this Act, and Chapters 156, 157, 342, 347, 348, and 351, Finance Code, as amended by this Act, the Finance Commission of Texas, as soon as practicable after the effective date of this Act, may adopt rules and establish interim procedures for licensing individuals engaging in or conducting the business of a residential mortgage loan originator in this state and for the approval or denial of applications for licenses authorizing individuals to engage in business as a residential mortgage loan originator. For individuals authorized by state law to engage in residential mortgage loan origination activities immediately before the effective date of this Act, the Finance Commission of Texas may establish expedited review and licensing procedures.

SECTION 22. (a) In this section, "Nationwide Mortgage Licensing System and Registry," "regulatory official," "residential mortgage loan originator," and "unique identifier" have the meanings assigned by

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Section 180.002, Finance Code, as added by this Act.

(b) On application by a person for a license, registration, and unique identifier as a residential mortgage loan originator with the Nationwide Mortgage Licensing System and Registry, the regulatory official may determine that the applicant meets the prelicensing education courses and written test requirements of Sections 180.056 and 180.057, Finance Code, as added by this Act, if the applicant, on the effective date of this Act, is acting as a state-licensed residential mortgage loan originator in this state under Chapter 156, Finance Code. The applicant must be in good standing with the regulatory official to obtain an exemption under this subsection.

(c) The regulatory official may determine an exemption under Subsection (b) of this section by rule of the Finance Commission of Texas.

(d) This section does not grant a residential mortgage loan originator a waiver from the continuing education requirements prescribed by the regulatory official and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 23. (a) Except as provided by Subsection (b) of this section, an individual is not required to comply with Chapter 180, Finance Code, as added by this Act, and Chapters 156, 157, 342, 347, 348, and 351, Finance Code, as amended by this Act, until the later of:

(1) July 31, 2010; or

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(2) a subsequent date that is approved by the secretary of the United States Department of Housing and Urban Development under the authority granted under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(b) An individual authorized to engage in residential mortgage loan origination activities in this state as of July 31, 2009, is not required to comply with Chapter 180, Finance Code, as added by this Act, and Chapters 156, 157, 342, 347, 348, and 351, Finance Code, as amended by this Act, until the later of:

(1) July 31, 2011; or

(2) a subsequent date approved by the secretary of the United States Department of Housing and Urban Development under the authority granted under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

SECTION 24. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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SECTION 25. Same as House version.

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