

By: Villarreal

H.B. No. 1601

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of residential mortgage loan
3 originators, residential mortgage loan companies, mortgage
4 bankers, and residential mortgage loan servicers under the
5 jurisdiction of the Department of Savings and Mortgage Lending;
6 providing for the imposition of fees.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. The heading to Chapter 156, Finance Code, is
9 amended to read as follows:

10 CHAPTER 156. RESIDENTIAL MORTGAGE LOAN COMPANIES [~~AND RESIDENTIAL~~
11 ~~MORTGAGE LOAN ORIGINATORS~~]

12 SECTION 2. Section 156.001, Finance Code, is amended to
13 read as follows:

14 Sec. 156.001. SHORT TITLE. This chapter may be cited as
15 the Residential Mortgage Loan Company [~~and Residential Mortgage~~
16 ~~Loan Originator~~] Licensing and Registration Act.

17 SECTION 3. Section 156.002, Finance Code, is amended by
18 adding Subdivision (4-b) and amending Subdivision (10-b) to read as
19 follows:

20 (4-b) "Inspection" includes examination.

21 (10-b) "Qualifying individual" means an individual
22 who is:

23 (A) licensed under Chapter 157 [~~this chapter~~] as
24 a residential mortgage loan originator; and

1 (B) [~~is~~] designated by a residential mortgage
2 loan company as the company's representative [~~for purposes of the~~
3 ~~Nationwide Mortgage Licensing System and Registry~~].

4 SECTION 4. The heading to Section 156.101, Finance Code, is
5 amended to read as follows:

6 Sec. 156.101. ADMINISTRATION AND ENFORCEMENT OF CHAPTER;
7 PARTICIPATION IN NATIONWIDE REGISTRY.

8 SECTION 5. Section 156.101(a), Finance Code, as amended by
9 Chapters 1104 (H.B. 10) and 1317 (H.B. 2774), Acts of the 81st
10 Legislature, Regular Session, 2009, is reenacted and amended to
11 read as follows:

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

14 SECTION 6. Section 156.102(a), Finance Code, is amended to
15 read as follows:

16 (a) The finance commission may adopt and enforce rules
17 necessary for the intent of or to ensure compliance with this
18 chapter[~~, except as provided by Section 15.4024 with respect to~~
19 ~~employees of credit union subsidiary organizations subject to~~
20 ~~regulation under Section 156.2015~~].

21 SECTION 7. Section 156.104(h), Finance Code, is amended to
22 read as follows:

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

26 (1) the proposal and adoption of rules relating to [+
27 [~~(A)~~] the licensing of [~~residential mortgage~~

1 ~~loan originators or~~] residential mortgage loan companies[~~+~~
2 [~~(B) the education and experience requirements~~
3 ~~for licensing residential mortgage loan originators; and~~
4 [~~(C) the conduct and ethics of residential~~
5 ~~mortgage loan originators~~];

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

8 (3) the interpretation, implementation, and
9 enforcement of this chapter.

10 SECTION 8. The heading to Subchapter C, Chapter 156,
11 Finance Code, is amended to read as follows:

12 SUBCHAPTER C. RESIDENTIAL MORTGAGE LOAN COMPANY [~~AND RESIDENTIAL~~
13 ~~MORTGAGE LOAN ORIGINATOR~~] LICENSES AND REGISTRATION

14 SECTION 9. Section 156.201(c), Finance Code, is amended to
15 read as follows:

16 (c) Each residential mortgage loan company and the
17 company's qualifying individual licensed under Chapter 157 [~~this~~
18 ~~chapter~~] is responsible to the commissioner and members of the
19 public for any act or conduct performed by the residential mortgage
20 loan originator sponsored by or acting for the residential mortgage
21 loan company in connection with:

- 22 (1) the origination of a residential mortgage loan; or
23 (2) a transaction that is related to the origination
24 of a residential mortgage loan in which the qualifying individual
25 knew or should have known of the transaction.

26 SECTION 10. Sections 156.202(a) and (a-1), Finance Code,
27 are amended to read as follows:

1 (a) In this section, "depository institution~~[,]~~" has
2 ~~["dwelling," "federal banking agency," and "immediate family~~
3 ~~member" have]~~ the meaning ~~[meanings]~~ assigned by Section 180.002.

4 (a-1) The following ~~[individuals or]~~ entities~~[, and~~
5 ~~employees of those entities when acting for the benefit of those~~
6 ~~entities,]~~ are exempt from this chapter:

7 (1) ~~[a registered mortgage loan originator when acting~~
8 ~~for:~~

9 ~~[(A) a depository institution;~~

10 ~~[(B) a subsidiary of a depository institution~~
11 ~~that is:~~

12 ~~[(i) owned and controlled by the depository~~
13 ~~institution; and~~

14 ~~[(ii) regulated by a federal banking~~
15 ~~agency; or~~

16 ~~[(C) an institution regulated by the Farm Credit~~
17 ~~Administration;~~

18 ~~[(2) an individual who offers or negotiates the terms~~
19 ~~of a residential mortgage loan with or on behalf of an immediate~~
20 ~~family member of the individual;~~

21 ~~[(3) a licensed attorney who negotiates the terms of a~~
22 ~~residential mortgage loan on behalf of a client as an ancillary~~
23 ~~matter to the attorney's representation of the client, unless the~~
24 ~~attorney:~~

25 ~~[(A) takes a residential mortgage loan~~
26 ~~application; and~~

27 ~~[(B) offers or negotiates the terms of a~~

1 ~~residential mortgage loan;~~

2 ~~[(4) an individual who offers or negotiates terms of a~~
3 ~~residential mortgage loan secured by a dwelling that serves as the~~
4 ~~individual's residence;~~

5 ~~[(5)]~~ a nonprofit organization providing self-help
6 housing that originates zero interest residential mortgage loans
7 for borrowers who have provided part of the labor to construct the
8 dwelling securing the loan;

9 (2) ~~[(6)]~~ a mortgage banker registered under Chapter
10 157;

11 (3) ~~[(7)]~~ any owner of residential real estate who in
12 any 12-consecutive-month period makes no more than five residential
13 mortgage loans to purchasers of the property for all or part of the
14 purchase price of the residential real estate against which the
15 mortgage is secured; and

16 (4) ~~[(8)]~~ an entity that is:

17 (A) a depository institution;

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

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

22 (ii) regulated by a federal banking agency;

23 or

24 (C) an institution regulated by the Farm Credit
25 Administration~~;~~ and

26 ~~[(9) an individual who is exempt as provided by~~
27 ~~Section 180.003(b)].~~

1 SECTION 11. Section 156.203(a-1), Finance Code, is amended
2 to read as follows:

3 (a-1) An application for a residential mortgage loan
4 company license [~~and a residential mortgage loan originator~~
5 ~~license~~] must be:

- 6 (1) in writing;
- 7 (2) under oath; and
- 8 (3) on the form prescribed by the commissioner.

9 SECTION 12. The heading to Section 156.2041, Finance Code,
10 is amended to read as follows:

11 Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
12 [~~LICENSES~~]: MORTGAGE COMPANY [~~AND RESIDENTIAL MORTGAGE LOAN~~
13 ~~ORIGINATORS~~].

14 SECTION 13. Section 156.2041(a), Finance Code, is amended
15 to read as follows:

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

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

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

23 (3) designate an individual licensed as a residential
24 mortgage loan originator under Chapter 157 [~~this chapter~~] as the
25 company's qualifying individual;

26 (4) submit a completed branch application through the
27 Nationwide Mortgage Licensing System and Registry for each branch

1 office that engages in residential mortgage loan activity on
2 residential real estate located in this state;

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

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

9 (7) maintain a physical office in this state; and

10 (8) provide financial statements and any other
11 information required by the commissioner.

12 SECTION 14. The heading to Section 156.2042, Finance Code,
13 is amended to read as follows:

14 Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
15 [~~LICENSES~~]: CREDIT UNION SUBSIDIARY ORGANIZATION [~~AND RESIDENTIAL~~
16 ~~MORTGAGE LOAN ORIGINATORS~~].

17 SECTION 15. Section 156.2042(a), Finance Code, is amended
18 to read as follows:

19 (a) To be issued a credit union subsidiary organization
20 license, an applicant must:

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

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

26 (3) designate an individual licensed as a residential
27 mortgage loan originator under Chapter 157 [~~this chapter~~] as the

1 company's qualifying individual;

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

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

9 (6) maintain a physical office in this state.

10 SECTION 16. The heading to Section 156.2043, Finance Code,
11 is amended to read as follows:

12 Sec. 156.2043. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
13 ~~[LICENSES]~~: AUXILIARY MORTGAGE LOAN ACTIVITY COMPANY ~~[AND~~
14 ~~RESIDENTIAL MORTGAGE LOAN ORIGINATORS]~~.

15 SECTION 17. Section 156.2043(a), Finance Code, is amended
16 to read as follows:

17 (a) To be issued an auxiliary mortgage loan activity company
18 license, an applicant must:

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

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

24 (3) designate an individual licensed as a residential
25 mortgage loan originator under Chapter 157 ~~[this chapter]~~ as the
26 company's qualifying individual; and

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

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

3 SECTION 18. The heading to Section 156.2044, Finance Code,
4 is amended to read as follows:

5 Sec. 156.2044. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
6 [~~LICENSES~~]: INDEPENDENT CONTRACTOR LOAN PROCESSOR OR UNDERWRITER
7 COMPANY [~~AND INDIVIDUAL LOAN PROCESSORS OR UNDERWRITERS~~].

8 SECTION 19. Sections 156.2044(a) and (b), Finance Code, are
9 amended to read as follows:

10 (a) To be issued an independent contractor loan processor or
11 underwriter company license under this chapter, an applicant must:

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

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

17 (3) designate an individual licensed as a residential
18 mortgage loan originator under Chapter 157 [~~this chapter~~] as the
19 company's qualifying individual; and

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

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

27 SECTION 20. The heading to Section 156.2045, Finance Code,

1 is amended to read as follows:

2 Sec. 156.2045. QUALIFICATIONS AND REQUIREMENTS FOR
3 REGISTRATION AND LICENSE: FINANCIAL SERVICES COMPANY [~~AND~~
4 ~~EXCLUSIVE AGENTS~~].

5 SECTION 21. Section 156.2046, Finance Code, is amended to
6 read as follows:

7 Sec. 156.2046. CONVICTION OF OFFENSE. A [~~For the purposes~~
8 ~~of Section 156.2041, 156.2042, 156.2043, 156.2044, or 156.2045, a~~]
9 person is considered to have been convicted of a criminal offense
10 if:

- 11 (1) a sentence is imposed on the person;
- 12 (2) the person received probation or community
13 supervision, including deferred adjudication or community service;
14 or
- 15 (3) the court deferred final disposition of the
16 person's case.

17 SECTION 22. Section 156.206(b), Finance Code, is amended to
18 read as follows:

19 (b) The commissioner shall conduct criminal background and
20 credit history checks on a person required to be licensed under this
21 chapter [~~in accordance with Section 180.054, and, in connection~~
22 ~~with each application for a residential mortgage loan originator~~
23 ~~license or other individual license, the commissioner may conduct a~~
24 ~~criminal background check through the Department of Public Safety].~~

25 SECTION 23. The heading to Section 156.207, Finance Code,
26 is amended to read as follows:

27 Sec. 156.207. ISSUANCE OF LICENSE [~~, PROVISIONAL LICENSE~~].

1 SECTION 24. Section 156.208(a-1), Finance Code, is amended
2 to read as follows:

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

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

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

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

16 SECTION 25. Section 156.209(g), Finance Code, is amended to
17 read as follows:

18 (g) A person whose application for or request to renew a
19 license has been denied is not eligible to be licensed for a period
20 of two years after the date the denial becomes final, or a shorter
21 period as determined by the commissioner after evaluating the
22 specific circumstances of the denial [~~person's subsequent~~
23 ~~application~~]. The finance commission may adopt rules to provide
24 conditions for which the commissioner may shorten the period of
25 ineligibility [~~time of disqualification~~].

26 SECTION 26. Sections 156.211(b) and (b-1), Finance Code,
27 are amended to read as follows:

1 (b) When the sponsorship of a residential mortgage loan
2 originator is terminated, the residential mortgage loan originator
3 or ~~and~~ the residential mortgage loan company shall immediately
4 notify the commissioner. ~~[The residential mortgage loan~~
5 ~~originator's license then becomes inactive. The residential~~
6 ~~mortgage loan originator license may be activated if, before the~~
7 ~~license expires, a residential mortgage loan company files a~~
8 ~~request, accompanied by a \$25 fee, notifying the commissioner that~~
9 ~~the residential mortgage loan company will sponsor the residential~~
10 ~~mortgage loan originator and will assume responsibility for the~~
11 ~~actions of the residential mortgage loan originator.]~~

12 (b-1) Not later than the 10th day before a residential
13 mortgage loan company begins doing business under an assumed name,
14 the residential mortgage loan company shall file with the
15 commissioner a copy of an assumed name certificate for each assumed
16 name under which the residential mortgage loan company intends to
17 conduct business and pay a \$25 registration fee for each assumed
18 name. ~~[A residential mortgage loan originator may not conduct~~
19 ~~business under any assumed name that is not the registered assumed~~
20 ~~name of the sponsoring residential mortgage loan company.]~~

21 SECTION 27. Section 156.213(a), Finance Code, is amended to
22 read as follows:

23 (a) Each licensed residential mortgage loan company ~~[or~~
24 ~~licensed residential mortgage loan originator, as required by the~~
25 ~~commissioner,]~~ shall file a mortgage call report with the
26 commissioner or the commissioner's authorized designee on a form
27 prescribed by the commissioner or authorized designee. The

1 report:

2 (1) is a statement of condition of the residential
3 mortgage loan company and the company's operations [~~, or a statement~~
4 ~~of condition of the residential mortgage loan originators sponsored~~
5 ~~by the company, as applicable~~], including financial statements and
6 production activity volumes;

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

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

11 SECTION 28. Section 156.214(b), Finance Code, is amended to
12 read as follows:

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

15 (1) be a depository institution exempt from this
16 chapter under Section 156.202(a-1)(4)(A) [~~156.202(a-1)(8)(A)~~] and
17 chartered and regulated by the Office of Thrift Supervision or the
18 Office of the Comptroller of the Currency, or be a subsidiary of the
19 institution;

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

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

1 exclusive agents, and supervise the residential mortgage loan
2 origination activities of its exclusive agents;

3 (4) pay an annual registration fee in an amount
4 determined as follows:

5 (A) if the registered financial services company
6 has 2,000 or fewer exclusive agents acting in this state, an amount
7 equal to the lesser of:

8 (i) one-half of the license fee for a
9 residential mortgage loan originator under Section 157.013(b)(1)
10 [~~156.203(c)(1)~~], multiplied by the number of exclusive agents under
11 contract to act for the person in this state; or

12 (ii) \$200,000;

13 (B) if the registered financial services company
14 has at least 2,001 but not more than 2,500 exclusive agents acting
15 in this state, \$225,000;

16 (C) if the registered financial services company
17 has at least 2,501 but not more than 3,000 exclusive agents acting
18 in this state, \$250,000;

19 (D) if the registered financial services company
20 has at least 3,001 but not more than 5,000 exclusive agents acting
21 in this state, \$300,000; or

22 (E) if the registered financial services company
23 has at least 5,001 exclusive agents acting in this state, \$350,000;
24 and

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

27 SECTION 29. Section 156.301(h), Finance Code, is amended to

1 read as follows:

2 (h) The commissioner may require reimbursement of expenses
3 [~~in an amount not to exceed \$325~~] for each examiner [~~a day~~] for
4 on-site examination or investigation of a licensed residential
5 mortgage loan company if records are located out of state or if the
6 review is considered necessary beyond the routine examination
7 process.

8 SECTION 30. Sections 156.303(a), (a-1), (g), and (i),
9 Finance Code, are amended to read as follows:

10 (a) The commissioner may order disciplinary action against
11 a licensed or registered residential mortgage loan company [~~or a~~
12 ~~licensed residential mortgage loan originator~~] when the
13 commissioner, after notice and opportunity for hearing, has
14 determined that the company [~~person~~]:

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

20 (2) published or caused to be published an
21 advertisement related to the business of a residential mortgage
22 loan company [~~or residential mortgage loan originator~~] that:

- 23 (A) is misleading;
- 24 (B) is likely to deceive the public;
- 25 (C) in any manner tends to create a misleading
26 impression;
- 27 (D) fails to identify as a residential mortgage

1 loan company [~~or residential mortgage loan originator~~] the person
2 causing the advertisement to be published; or

3 (E) violates federal or state law;

4 (3) while performing an act for which a license or
5 registration under this chapter is required, engaged in conduct
6 that constitutes improper, fraudulent, or dishonest dealings;

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

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

14 (6) charged or received, directly or indirectly, a fee
15 for assisting a mortgage applicant in obtaining a residential
16 mortgage loan before all of the services that the person agreed to
17 perform for the mortgage applicant are completed, and the proceeds
18 of the residential mortgage loan have been disbursed to or on behalf
19 of the mortgage applicant [~~, except as provided by Section 156.304~~];

20 (7) failed within a reasonable time to honor a check
21 issued to the commissioner after the commissioner has mailed a
22 request for payment of the check and any applicable fees by
23 certified mail to the person's last known business address as
24 reflected by the commissioner's records;

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

1 required;

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

5 (10) published or circulated an unjustified or
6 unwarranted threat of legal proceedings in matters related to the
7 person's actions or services as a residential mortgage loan company
8 [~~or residential mortgage loan originator, as applicable~~];

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

14 (12) aided, abetted, or conspired with a person to
15 circumvent the requirements of this chapter or Subchapter C,
16 Chapter 157;

17 (13) acted in the dual capacity of a residential
18 mortgage loan company [~~or residential mortgage loan originator~~] and
19 real estate broker, salesperson, or attorney in a transaction
20 without the knowledge and written consent of the mortgage applicant
21 or in violation of applicable requirements under federal law;

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

25 (15) failed or refused on demand to:

26 (A) produce a document, book, or record
27 concerning a residential mortgage loan transaction conducted by a

1 ~~[the]~~ residential mortgage loan originator for inspection by the
2 commissioner or the commissioner's authorized personnel or
3 representative;

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

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

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

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

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

23 (a-1) The commissioner may also order disciplinary action
24 after notice and opportunity for hearing against a licensed or
25 registered residential mortgage loan company ~~[or a licensed~~
26 ~~residential mortgage loan originator]~~ if the commissioner becomes
27 aware during the term of the license of any fact that would have

1 been grounds for denial of an original license if the fact had been
2 known by the commissioner on the date the license was issued.

3 (g) If a person fails to pay an administrative penalty that
4 has become final or fails to comply with an order of the
5 commissioner that has become final, in addition to any other remedy
6 provided under law the commissioner, on not less than 10 days'
7 notice to the person, may without a prior hearing suspend the
8 person's residential mortgage loan company license or registration
9 ~~[or residential mortgage loan originator license]~~. The suspension
10 shall continue until the person has complied with the order or paid
11 the administrative penalty. ~~[During the period of suspension, the~~
12 ~~person may not originate a residential mortgage loan and all~~
13 ~~compensation received by the person during the period of suspension~~
14 ~~is subject to forfeiture as provided by Section 156.406(b).]~~

15 (i) An order revoking the license or registration of a
16 residential mortgage loan company ~~[or the license of a residential~~
17 ~~mortgage loan originator]~~ may provide that the person is
18 prohibited, without obtaining prior written consent of the
19 commissioner, from:

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

22 (2) ~~[being an employee, officer, director, manager,~~
23 ~~shareholder, member, agent, contractor, or processor of a~~
24 ~~residential mortgage loan company or residential mortgage loan~~
25 ~~originator, or~~

26 ~~[(3)]~~ otherwise affiliating with a person for the
27 purpose of engaging in the business of originating or making

1 residential mortgage loans.

2 SECTION 31. Section 156.305, Finance Code, is amended to
3 read as follows:

4 Sec. 156.305. RESTITUTION. The commissioner may order a
5 person to make restitution for any amount received by that person in
6 violation of this chapter. A residential mortgage loan company may
7 be required to make restitution for any amount received by a
8 sponsored residential mortgage loan originator in violation of
9 Chapter 157 [~~this chapter~~].

10 SECTION 32. Section 156.401(d), Finance Code, is amended to
11 read as follows:

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

17 SECTION 33. The heading to Subchapter F, Chapter 156,
18 Finance Code, is amended to read as follows:

19 SUBCHAPTER F. [~~MORTGAGE BROKER~~] RECOVERY FUND

20 SECTION 34. Section 156.501(b), Finance Code, is amended to
21 read as follows:

22 (b) Subject to this subsection, the recovery fund shall be
23 used to reimburse residential mortgage loan applicants for actual
24 damages incurred because of acts committed by a residential
25 mortgage loan originator who was licensed [~~under this chapter or~~]
26 under Chapter 157 when the act was committed. The use of the fund
27 is limited to reimbursement for out-of-pocket losses caused by an

1 act by[+]

2 [~~(1)~~ a residential mortgage loan originator licensed
3 under this chapter that constitutes a violation of Section
4 ~~156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12), (13), or~~
5 ~~(16) or 156.304; or~~

6 [~~(2)~~] a residential mortgage loan originator licensed
7 under Chapter 157 that constitutes a violation of Section
8 157.024(a)(2), (3), (5), (7), (8), (9), (10), (13), [~~or~~] (16),
9 (17), or (18) or 157.02014(b).

10 SECTION 35. Section 156.503(a), Finance Code, is amended to
11 read as follows:

12 (a) An application for the recovery of actual damages from
13 the recovery fund under Section 156.504 may not be filed after the
14 fourth [~~second~~] anniversary of the date of the alleged act or
15 omission causing the actual damages or the date the act or omission
16 should reasonably have been discovered.

17 SECTION 36. Section 156.504(b), Finance Code, is amended to
18 read as follows:

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

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

23 (2) that the applicant:

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

26 (B) is not a child, parent, grandchild,
27 grandparent, or sibling, including relationships by adoption, of

1 the licensed residential mortgage loan originator;

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

6 (D) is not a person who has aided, abetted, or
7 participated other than as a victim with the licensed residential
8 mortgage loan originator in any activity that is illegal under
9 [~~Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12),~~
10 ~~(13), or (16), Section 156.304, or~~] Section 157.024(a)(2), (3),
11 (5), (7), (8), (9), (10), (13), [~~or~~] (16), (17), or (18) or
12 157.02014(b), or is not the personal representative of a licensed
13 residential mortgage loan originator; and

14 (E) is not licensed as a residential mortgage
15 loan originator under Chapter 157 [~~this chapter~~] who is seeking to
16 recover any compensation in the transaction or transactions for
17 which the application for payment is made.

18 SECTION 37. Section 156.505(b), Finance Code, is amended to
19 read as follows:

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

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

25 (2) against a single person licensed as a residential
26 mortgage loan originator under [~~this chapter or~~] Chapter 157
27 arising out of separate transactions, including interest, is

1 limited in the aggregate to \$50,000 until the fund has been
2 reimbursed for all amounts paid.

3 SECTION 38. Sections 156.506(a), (c), and (d), Finance
4 Code, are amended to read as follows:

5 (a) The commissioner may revoke or suspend a license issued
6 under this chapter on proof that the commissioner has made a payment
7 from the recovery fund of any amount toward satisfaction of a claim
8 against a residential mortgage loan originator under Chapter 157
9 [~~this chapter~~].

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

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

26 SECTION 39. The heading to Chapter 157, Finance Code, is
27 amended to read as follows:

1 CHAPTER 157. REGISTRATION OF MORTGAGE BANKERS AND LICENSING OF
2 RESIDENTIAL MORTGAGE LOAN ORIGINATORS

3 SECTION 40. Sections 157.001 and 157.002, Finance Code, are
4 designated as Subchapter A, Chapter 157, Finance Code, and a
5 heading is added to that subchapter to read as follows:

6 SUBCHAPTER A. GENERAL PROVISIONS

7 SECTION 41. Section 157.002, Finance Code, is amended by
8 adding Subdivisions (3-a) and (5-a) to read as follows:

9 (3-a) "Inspection" includes examination.

10 (5-a) "Residential mortgage loan company" has the
11 meaning assigned by Section 156.002.

12 SECTION 42. Sections 157.003, 157.004, 157.005, 157.006,
13 157.0061, 157.0062, 157.007, 157.008, 157.009, and 157.010,
14 Finance Code, are designated as Subchapter B, Chapter 157, Finance
15 Code, and a heading is added to that subchapter to read as follows:

16 SUBCHAPTER B. REGISTRATION OF MORTGAGE BANKERS

17 SECTION 43. Section 157.003(b), Finance Code, is amended to
18 read as follows:

19 (b) To register under this chapter, a mortgage banker shall:

20 (1) enroll with the Nationwide Mortgage Licensing
21 System and Registry;

22 (2) be in good standing with the secretary of state;

23 (3) have a valid federal employer identification
24 number;

25 (4) meet the qualification requirements for a mortgage
26 banker; ~~and~~

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

1 under this chapter, or any order previously issued by the
2 commissioner to the applicant; and

3 (6) provide to the commissioner a list of any offices
4 that are separate and distinct from the primary office identified
5 on the mortgage banker registration and that conduct residential
6 mortgage loan business relating to this state, regardless of
7 whether the offices are located in this state.

8 SECTION 44. Section 157.005, Finance Code, is amended to
9 read as follows:

10 Sec. 157.005. UPDATE OF REGISTRATION. A mortgage banker
11 shall update information contained in the registration not later
12 than the 10th [~~30th~~] day after the date the information changes.

13 SECTION 45. Section 157.009, Finance Code, is amended by
14 adding Subsection (d-1) and amending Subsection (e) to read as
15 follows:

16 (d-1) The commissioner, after review of the circumstances,
17 may revoke the registration of a mortgage banker if the mortgage
18 banker has had a license, registration, or other certification
19 revoked in another state by a state or federal regulatory
20 authority.

21 (e) If the commissioner proposes to revoke a registration
22 under Subsection (c), ~~[or]~~ (d), or (d-1), the mortgage banker is
23 entitled to a hearing before the commissioner or a hearings
24 officer, who shall propose a decision to the commissioner. The
25 commissioner or hearings officer shall prescribe the time and place
26 of the hearing. The hearing is governed by Chapter 2001, Government
27 Code.

1 SECTION 46. Section 157.011, Finance Code, is transferred
2 to Subchapter A, Chapter 157, Finance Code, as added by this Act,
3 and redesignated as Section 157.0021, Finance Code, to read as
4 follows:

5 Sec. 157.0021 [~~157.011~~]. RULEMAKING AUTHORITY. (a) The
6 Finance Commission of Texas may adopt rules necessary to implement
7 or fulfill the purpose of this chapter.

8 (b) The Finance Commission of Texas may by rule adopt
9 standard forms for, and require the use of the forms by, a mortgage
10 banker who represents that an applicant for a loan is preapproved or
11 has prequalified for the loan.

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

16 SECTION 47. Sections 157.012, 157.013, 157.014, 157.015,
17 157.016, 157.017, 157.019, 157.020, and 157.0201, Finance Code, are
18 designated as Subchapter C, Chapter 157, Finance Code, and a
19 heading is added to that subchapter to read as follows:

20 SUBCHAPTER C. LICENSING OF RESIDENTIAL MORTGAGE LOAN ORIGINATORS;
21 DISCLOSURES AND REQUIREMENTS

22 SECTION 48. The heading to Section 157.012, Finance Code,
23 is amended to read as follows:

24 Sec. 157.012. LICENSE REQUIRED FOR RESIDENTIAL MORTGAGE
25 LOAN ORIGINATORS [~~CERTAIN EMPLOYEES OF MORTGAGE BANKERS~~].

26 SECTION 49. Section 157.012, Finance Code, is amended by
27 amending Subsections (a) and (c) and adding Subsections (a-1),

1 (a-2), (e), and (f) to read as follows:

2 (a) Except as provided by Subsection (a-1), an individual
3 ~~[An employee of a mortgage banker]~~ may not act in the capacity of a
4 residential mortgage loan originator unless the individual is
5 exempt under Section 157.0121 or [employee]:

6 (1) is licensed under this chapter, sponsored by an
7 appropriate company ~~[a registered mortgage banker]~~, and enrolled
8 with the Nationwide Mortgage Licensing System and Registry as
9 required by Section 180.052; and

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

13 (a-1) Unless exempt under Section 180.003(b), an exclusive
14 agent of a registered financial services company may not act or
15 attempt to act as a residential mortgage loan originator unless the
16 exclusive agent at the time is licensed under this chapter and
17 sponsored by an appropriate company.

18 (a-2) A residential mortgage loan originator must be
19 sponsored by at least one mortgage banker or residential mortgage
20 loan company.

21 (c) To be eligible to be licensed as a residential mortgage
22 loan originator, the individual ~~[an employee of a mortgage banker]~~,
23 in addition to meeting the requirements of Subsection (a), must:

24 (1) satisfy the commissioner as to the individual's
25 ~~[employee's]~~ good moral character, including the individual's
26 ~~[employee's]~~ honesty, trustworthiness, and integrity;

27 (2) not be in violation of this chapter, Chapter 180,

1 or any rules adopted under this chapter or Chapter 180;

2 (3) provide the commissioner with satisfactory
3 evidence that the individual [~~employee~~] meets the qualifications
4 provided by Chapter 180; and

5 (4) be a citizen of the United States or a lawfully
6 admitted alien.

7 (e) A licensed residential mortgage loan originator who is
8 no longer acting in that capacity for the originator's sponsoring
9 banker or company during the licensing period may continue to
10 originate loans under this chapter without reapplying for a new
11 license if the originator is sponsored by an appropriate company.

12 (f) In this section, "appropriate company" means a company:

13 (1) that is a registered mortgage banker under this
14 chapter or a licensed or registered residential mortgage loan
15 company under Chapter 156; and

16 (2) for which the individual is acting as a
17 residential mortgage loan originator.

18 SECTION 50. Subchapter C, Chapter 157, Finance Code, as
19 added by this Act, is amended by adding Section 157.0121 to read as
20 follows:

21 Sec. 157.0121. EXEMPTIONS FROM RESIDENTIAL MORTGAGE LOAN
22 ORIGINATOR REQUIREMENTS. (a) In this section, "depository
23 institution," "dwelling," "federal banking agency," and "immediate
24 family member" have the meanings assigned by Section 180.002.

25 (b) The following individuals are exempt from this chapter:

26 (1) a registered mortgage loan originator when acting
27 for:

- 1 (A) a depository institution;
2 (B) a subsidiary of a depository institution that
3 is:
4 (i) owned and controlled by the depository
5 institution; and
6 (ii) regulated by a federal banking agency;
7 or
8 (C) an institution regulated by the Farm Credit
9 Administration;
10 (2) an individual who offers or negotiates the terms
11 of a residential mortgage loan with or on behalf of an immediate
12 family member of the individual;
13 (3) a licensed attorney who negotiates the terms of a
14 residential mortgage loan on behalf of a client as an ancillary
15 matter to the attorney's representation of the client, unless the
16 attorney:
17 (A) takes a residential mortgage loan
18 application; and
19 (B) offers or negotiates the terms of a
20 residential mortgage loan;
21 (4) an individual who offers or negotiates terms of a
22 residential mortgage loan secured by a dwelling that serves as the
23 individual's residence;
24 (5) any owner of residential real estate who in any
25 12-consecutive-month period makes no more than five residential
26 mortgage loans to purchasers of the property for all or part of the
27 purchase price of the residential real estate against which the

1 mortgage is secured; and

2 (6) an individual who is exempt as provided by Section
3 180.003(b).

4 (c) Employees of the following entities, when acting for the
5 benefit of those entities, are exempt from the licensing and other
6 requirements of this chapter applicable to residential mortgage
7 loan originators:

8 (1) a nonprofit organization providing self-help
9 housing that originates zero interest residential mortgage loans
10 for borrowers who have provided part of the labor to construct the
11 dwelling securing the loan;

12 (2) any owner of residential real estate who in any
13 12-consecutive-month period makes no more than five residential
14 mortgage loans to purchasers of the property for all or part of the
15 purchase price of the residential real estate against which the
16 mortgage is secured; and

17 (3) an entity that is:

18 (A) a depository institution;

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

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

23 (ii) regulated by a federal banking agency;

24 or

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

27 (d) A person is not required to obtain a license under this

1 chapter to originate a loan subject to Chapter 342 or a loan
2 governed by Section 50(a)(6), Article XVI, Texas Constitution, if
3 the person:

4 (1) is enrolled in the Nationwide Mortgage Licensing
5 System and Registry;

6 (2) is licensed under Chapter 342; and

7 (3) makes consumer loans subject to:

8 (A) Subchapter G, Chapter 342; and

9 (B) Subchapter E or F, Chapter 342.

10 (e) The finance commission may grant an exemption from the
11 residential mortgage loan originator licensing requirements of
12 this chapter to a municipality, county, community development
13 corporation, or public or private grant administrator to the extent
14 the entity is administering the Texas HOME Investment Partnerships
15 program if the commission determines that granting the exemption is
16 not inconsistent with the intentions of the federal Secure and Fair
17 Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No.
18 110-289).

19 SECTION 51. Section 157.013, Finance Code, is amended by
20 amending Subsection (b) and adding Subsection (d) to read as
21 follows:

22 (b) An application for a residential mortgage loan
23 originator license must be accompanied by:

24 (1) an application fee in an amount determined by the
25 commissioner, not to exceed \$500; [7] and

26 (2) [~~by~~] a recovery fund fee in an amount determined by
27 the commissioner, not to exceed \$20.

1 (d) In addition to the disciplinary action by the
2 commissioner authorized under Section 157.024(a)(6), the
3 commissioner may collect a fee in an amount not to exceed \$50 for
4 any returned check or credit card charge back.

5 SECTION 52. Subchapter C, Chapter 157, Finance Code, as
6 added by this Act, is amended by adding Sections 157.0131,
7 157.0132, and 157.0133 to read as follows:

8 Sec. 157.0131. FINANCIAL REQUIREMENTS. (a) In this
9 section, "financial services company" has the meaning assigned by
10 Section 156.002.

11 (b) Except as provided by Subsection (c), financial
12 requirements for holding a residential mortgage loan originator
13 license shall be met through participation in the recovery fund.

14 (c) An exclusive agent of a financial services company meets
15 the agent's financial requirements for holding a residential
16 mortgage loan originator license by obtaining surety bond coverage
17 in an amount equal to \$1 million.

18 Sec. 157.0132. CONVICTION OF OFFENSE. A person is
19 considered to have been convicted of a criminal offense if:

20 (1) a sentence is imposed on the person;

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

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

26 Sec. 157.0133. CRIMINAL AND OTHER BACKGROUND CHECKS.

27 (a) On receipt of an application for a residential mortgage loan

1 originator license, the commissioner shall, at a minimum, conduct a
2 criminal background and credit history check of the applicant.

3 (b) The commissioner shall conduct criminal background and
4 credit history checks in accordance with Section 180.054, and, in
5 connection with each application for a residential mortgage loan
6 originator license or other individual license, the commissioner
7 may conduct a criminal background check through the Department of
8 Public Safety.

9 (c) The commissioner shall keep confidential any background
10 information obtained under this section and may not release or
11 disclose the information unless:

12 (1) the information is a public record at the time the
13 commissioner obtains the information; or

14 (2) the commissioner releases the information:

15 (A) under order from a court;

16 (B) with the permission of the applicant;

17 (C) to a person through whom the applicant is
18 conducting or will conduct business; or

19 (D) to a governmental agency.

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

25 SECTION 53. Subchapter C, Chapter 157, Finance Code, as
26 added by this Act, is amended by adding Section 157.0141 to read as
27 follows:

1 Sec. 157.0141. CONDITIONAL LICENSE. The commissioner may
2 issue a conditional license. The finance commission by rule shall
3 adopt reasonable terms and conditions for a conditional license.

4 SECTION 54. Section 157.015, Finance Code, is amended by
5 amending Subsections (a), (b), (c), and (d) and adding Subsections
6 (d-1) and (h) to read as follows:

7 (a) Except as provided by Subsection (b), a residential
8 mortgage loan originator license issued under this chapter is valid
9 through December 31 of the year of issuance and may be renewed on or
10 before its expiration date if the residential mortgage loan
11 originator:

12 (1) pays to the commissioner a renewal fee in an amount
13 determined by the commissioner not to exceed \$500 and a recovery
14 fund fee as provided by Section 156.502;

15 (2) continues to meet the minimum requirements for
16 license issuance; and

17 (3) provides the commissioner with satisfactory
18 evidence that the residential mortgage loan originator has
19 attended, during the term of the current license, continuing
20 education courses in accordance with the applicable requirements of
21 Chapter 180. [A residential mortgage loan originator license issued
22 under this chapter is valid for one year and may be renewed on or
23 before its expiration date.]

24 (b) A license issued under this chapter to a registered
25 financial services company's exclusive agent is valid through
26 December 31 of the year of issuance and may be renewed on or before
27 the expiration date if the exclusive agent complies with the

1 requirements of Subsections (a)(2) and (3). In this subsection,
2 registered financial services company has the meaning assigned by
3 Section 156.002. [~~Each residential mortgage loan originator~~
4 license will be renewed for not more than a one-year period expiring
5 December 31 of each calendar year.]

6 (c) An application for renewal of a residential mortgage
7 loan originator license shall meet the requirements of Section
8 157.013(a) [~~157.013~~].

9 (d) On receipt of a request for a renewal of a license issued
10 under this subchapter, the commissioner may conduct a criminal
11 background check under Section 157.0133. [~~An application for~~
12 renewal of a residential mortgage loan originator license must meet
13 all of the standards and qualifications for license renewal under
14 Chapter 180.]

15 (d-1) A renewal fee is not refundable and may not be
16 credited or applied to any other fee or indebtedness owed by the
17 person paying the fee.

18 (h) In addition to the disciplinary action by the
19 commissioner authorized under Section 157.024(a)(6), the
20 commissioner may collect a fee in an amount not to exceed \$50 for
21 any returned check or credit card charge back.

22 SECTION 55. Section 157.017(g), Finance Code, is amended to
23 read as follows:

24 (g) A person whose application for or request to renew a
25 license has been denied is not eligible to be licensed for a period
26 of two years after the date the denial becomes final, or a shorter
27 period as determined by the commissioner after evaluating the

1 specific circumstances of the denial [~~person's subsequent~~
2 ~~application~~]. The finance commission may adopt rules to provide
3 conditions for which the commissioner may shorten the period of
4 ineligibility [~~time for eligibility for a new license~~].

5 SECTION 56. The heading to Section 157.019, Finance Code,
6 is amended to read as follows:

7 Sec. 157.019. MODIFICATION OF LICENSE; CHANGE OF
8 SPONSORSHIP.

9 SECTION 57. Section 157.019, Finance Code, is amended by
10 amending Subsection (c) and adding Subsections (d) and (e) to read
11 as follows:

12 (c) When the sponsorship of a residential mortgage loan
13 originator is terminated, the residential mortgage loan originator
14 or the registered mortgage banker or residential mortgage loan
15 company that had been sponsoring the originator shall immediately
16 notify the commissioner. The residential mortgage loan
17 originator's license then becomes inactive. The residential
18 mortgage loan originator license may be activated if, before the
19 license expires, a registered mortgage banker or licensed or
20 registered residential mortgage loan company files a request,
21 accompanied by a \$25 fee, notifying the commissioner that the
22 banker or company will sponsor the residential mortgage loan
23 originator and will assume responsibility for the actions of the
24 residential mortgage loan originator. [A mortgage banker employee
25 who is a residential mortgage loan originator shall notify the
26 commissioner or authorized designee in writing of a change of
27 sponsorship. The notice must be accompanied by a fee of \$25.]

1 (d) A residential mortgage loan originator may not conduct
2 business under any assumed name that is not the registered assumed
3 name of a residential mortgage loan company sponsoring the
4 originator.

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

8 SECTION 58. Section 157.020, Finance Code, is amended by
9 adding Subsection (a-1) to read as follows:

10 (a-1) Each licensed residential mortgage loan originator,
11 as required by the commissioner, shall file a mortgage call report
12 with the commissioner or the commissioner's authorized designee on
13 a form prescribed by the commissioner or authorized designee. The
14 report:

15 (1) is a statement of condition of the residential
16 mortgage loan originators sponsored by a residential mortgage loan
17 company, including financial statements and production activity
18 volumes;

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

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

23 SECTION 59. Subchapter C, Chapter 157, Finance Code, as
24 added by this Act, is amended by adding Sections 157.02012,
25 157.02013, 157.02014, 157.02015, 157.02016, 157.02017, 157.02018,
26 and 157.02019 to read as follows:

27 Sec. 157.02012. DISCLOSURE TO APPLICANT. (a) At the time

1 an applicant submits an application to a residential mortgage loan
2 originator, the residential mortgage loan originator shall provide
3 to the applicant a disclosure that specifies:

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

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

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

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

13 Sec. 157.02013. STANDARD FORMS. (a) The finance
14 commission by rule shall adopt one or more standard forms for use by
15 a residential mortgage loan originator in representing that an
16 applicant for a residential mortgage loan is preapproved or has
17 prequalified for the loan.

18 (b) The finance commission shall adopt rules requiring a
19 residential mortgage loan originator licensed under this chapter to
20 use the forms adopted by the finance commission under Subsection
21 (a).

22 Sec. 157.02014. FEE ASSESSMENT AND DISCLOSURE. (a) Before
23 the completion of all services to be performed, a residential
24 mortgage loan originator may charge and receive, unless prohibited
25 by law, the following fees for services in assisting a mortgage
26 applicant to obtain a residential mortgage loan:

27 (1) a fee to obtain a credit report;

- 1 (2) a fee for the appraisal of the real estate;
2 (3) a fee for processing a residential mortgage loan
3 application;
4 (4) a fee for taking a residential mortgage loan
5 application;
6 (5) a fee for automated underwriting;
7 (6) a fee for a courier service;
8 (7) a fee to issue a loan commitment; or
9 (8) subject to Subsection (b), a fee for locking in an
10 interest rate.

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

17 Sec. 157.02015. SECONDARY MARKET TRANSACTIONS. This
18 chapter does not prohibit a residential mortgage loan originator
19 from receiving compensation from a party other than the mortgage
20 applicant for the sale, transfer, assignment, or release of rights
21 on the closing of a mortgage transaction.

22 Sec. 157.02016. AFFILIATED BUSINESS ARRANGEMENTS. Unless
23 prohibited by federal or state law, this chapter may not be
24 construed to prevent affiliated or controlled business
25 arrangements or loan origination services by or between residential
26 mortgage loan originators and other professionals if the
27 residential mortgage loan originator complies with all applicable

1 federal and state laws permitting those arrangements or services.

2 Sec. 157.02017. RULEMAKING AUTHORITY WITH RESPECT TO
3 RESIDENTIAL MORTGAGE LOAN ORIGINATORS. (a) The finance
4 commission may adopt rules to prohibit false, misleading, or
5 deceptive practices by residential mortgage loan originators but
6 may not adopt any other rules restricting competitive bidding or
7 advertising by residential mortgage loan originators. When
8 adopting rules under this subsection, the finance commission may
9 not restrict:

10 (1) the use of any medium for an advertisement;

11 (2) the personal appearance of or voice of a person in
12 an advertisement;

13 (3) the size or duration of an advertisement; or

14 (4) a residential mortgage loan originator's
15 advertisement under a trade name.

16 (b) The finance commission may adopt rules regarding books
17 and records that a residential mortgage loan originator licensed
18 under this chapter is required to keep, including the location at
19 which the books and records must be kept.

20 (c) The finance commission shall consult with the
21 commissioner when proposing and adopting rules under this section.

22 Sec. 157.02018. MORTGAGE INDUSTRY ADVISORY COMMITTEE;
23 RESIDENTIAL MORTGAGE LOAN ORIGINATORS. (a) In addition to other
24 powers and duties delegated by the commissioner to the mortgage
25 industry advisory committee created under Section 156.104, the
26 advisory committee shall advise the commissioner with respect to:

27 (1) the proposal and adoption of rules relating to:

1 (A) the licensing of residential mortgage loan
2 originators;

3 (B) the education and experience requirements
4 for licensing residential mortgage loan originators; and

5 (C) the conduct and ethics of residential
6 mortgage loan originators;

7 (2) the form of or format for any applications or other
8 documents under this subchapter or Subchapter D; and

9 (3) the interpretation, implementation, and
10 enforcement of this subchapter or Subchapter D.

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

14 (1) the result of the vote; and

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

18 (c) A record vote taken by the advisory committee under
19 Subsection (b) is only a recommendation and does not supersede the
20 rulemaking authority of the finance commission under this
21 subchapter.

22 Sec. 157.02019. ADMINISTRATION OF SUBCHAPTER. The
23 commissioner shall administer and enforce this subchapter.

24 SECTION 60. Sections 157.021, 157.0211, 157.022, 157.023,
25 157.024, 157.0241, 157.025, 157.026, 157.027, 157.028, 157.029,
26 157.030, and 157.031, Finance Code, are designated as Subchapter D,
27 Chapter 157, Finance Code, and a heading is added to that subchapter

1 to read as follows:

2 SUBCHAPTER D. ENFORCEMENT

3 SECTION 61. Section 157.021, Finance Code, is amended by
4 amending Subsection (a) and adding Subsection (h) to read as
5 follows:

6 (a) The commissioner may conduct an inspection of a person
7 licensed as a residential mortgage loan originator as the
8 commissioner determines necessary to determine whether the person
9 is complying with this chapter, Chapter 180, and applicable rules.
10 An inspection under this subsection may include inspection of the
11 books, records, documents, operations, and facilities of the
12 person. The commissioner may request the assistance and
13 cooperation of a sponsoring [~~the~~] mortgage banker in providing
14 needed documents and records. The commissioner may not make a
15 request of a sponsoring [~~the~~] mortgage banker for documents and
16 records unrelated to the person being investigated or
17 inspected. The commissioner may share evidence of criminal
18 activity gathered during an inspection or investigation with any
19 state or federal law enforcement agency.

20 (h) The commissioner may require reimbursement of expenses
21 for each examiner for an on-site examination or inspection of a
22 licensed residential mortgage loan originator if records are
23 located out of state and are not made available for examination or
24 inspection by the examiner in this state.

25 SECTION 62. Section 157.0211, Finance Code, is amended to
26 read as follows:

27 Sec. 157.0211. MULTI-STATE EXAMINATION AUTHORITY OF

1 RESIDENTIAL MORTGAGE LOAN SERVICER. To ensure that mortgage
2 bankers that act as residential mortgage loan servicers operate in
3 this state in compliance with this chapter and with other law in
4 accordance with this chapter, the commissioner or the
5 commissioner's designee may participate in multi-state mortgage
6 examinations as scheduled by the Conference of State Bank
7 Supervisors Multi-State Mortgage Committee or by the Consumer
8 Financial Protection Bureau in accordance with the [~~Conference of~~
9 ~~State Bank Supervisors~~] protocol for such examinations.

10 SECTION 63. Section 157.024(a), Finance Code, is amended to
11 read as follows:

12 (a) The commissioner may order disciplinary action against
13 a licensed residential mortgage loan originator when the
14 commissioner, after notice and opportunity for a hearing, has
15 determined that the person:

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

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

24 (A) was misleading;

25 (B) was likely to deceive the public;

26 (C) in any manner tended to create a misleading
27 impression;

1 (D) failed to identify as a licensed residential
2 mortgage loan originator the person causing the advertisement to be
3 published; or

4 (E) violated federal or state law;

5 (3) while performing an act for which a license under
6 this chapter is required, engaged in conduct that constitutes
7 improper, fraudulent, or dishonest dealings;

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

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

15 (6) failed within a reasonable time to honor a check
16 issued to the commissioner after the commissioner mailed a request
17 for payment by mail to the person's last known business address as
18 reflected in the commissioner's records;

19 (7) induced or attempted to induce a party to a
20 contract to breach the contract so the person could make a
21 residential mortgage loan;

22 (8) published or circulated an unjustified or
23 unwarranted threat of legal proceedings in matters related to the
24 person's actions or services as a licensed residential mortgage
25 loan originator;

26 (9) aided, abetted, or conspired with a person to
27 circumvent the requirements of this chapter;

1 (10) acted in the dual capacity of a licensed
2 residential mortgage loan originator and real estate broker,
3 salesperson, or attorney in a transaction without the knowledge and
4 written consent of the mortgage applicant or in violation of
5 applicable requirements under federal law;

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

9 (12) failed or refused on demand to:

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

15 (B) give the commissioner or the commissioner's
16 authorized personnel or representative free access to the books or
17 records relating to the residential mortgage loan originator's
18 business kept by any other person or any business entity through
19 which the residential mortgage loan originator conducts
20 residential mortgage loan origination activities; or

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

24 (13) failed without just cause to surrender, on
25 demand, a copy of a document or other instrument coming into the
26 residential mortgage loan originator's possession that was
27 provided to the residential mortgage loan originator by another

1 person making the demand or that the person making the demand is
2 under law entitled to receive;

3 (14) disregarded or violated this chapter, a rule
4 adopted under this chapter, or an order issued by the commissioner
5 under this chapter;

6 (15) provided false information to the commissioner
7 during the course of an investigation or inspection;

8 (16) paid compensation to a person who is not licensed
9 or exempt under this chapter for acts for which a license under this
10 chapter is required; [~~or~~]

11 (17) established an association, by employment or
12 otherwise, with a person not licensed or exempt under this chapter
13 or Chapter 156 who was expected or required to act as a residential
14 mortgage loan originator or residential mortgage loan company; or

15 (18) charged or received, directly or indirectly, a
16 fee for assisting a mortgage applicant in obtaining a residential
17 mortgage loan before all of the services that the person agreed to
18 perform for the mortgage applicant are completed, and the proceeds
19 of the residential mortgage loan have been disbursed to or on behalf
20 of the mortgage applicant, except as provided by Section 157.02014.

21 SECTION 64. Section 157.026, Finance Code, is amended by
22 adding Subsection (e) to read as follows:

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

25 SECTION 65. Section 157.031, Finance Code, is amended by
26 amending Subsection (a) and adding Subsection (a-1) to read as
27 follows:

1 (a) A person who is not exempt under this chapter and who
2 acts as a residential mortgage loan originator without first
3 obtaining a license required under this chapter commits an offense.
4 ~~[A person commits an offense if the person is an employee of a~~
5 ~~mortgage banker, is not exempt under this chapter, and acts as a~~
6 ~~residential mortgage loan originator without first obtaining a~~
7 ~~license required under this chapter.]~~ An offense under this
8 subsection is a Class B misdemeanor. A second or subsequent
9 conviction for an offense under this subsection is a Class A
10 misdemeanor.

11 (a-1) A person who received money, or the equivalent of
12 money, as a fee or profit because of or in consequence of the person
13 acting as a residential mortgage loan originator without an active
14 license or being exempt under this chapter is liable for damages in
15 an amount that is not less than the amount of the fee or profit
16 received and not to exceed three times the amount of the fee or
17 profit received, as may be determined by the court. An aggrieved
18 person may recover damages under this subsection in a court.

19 SECTION 66. Subchapter D, Chapter 157, Finance Code, as
20 added by this Act, is amended by adding Section 157.032 to read as
21 follows:

22 Sec. 157.032. POWERS OF COMMISSIONER. (a) In addition to
23 any other action, proceeding, or remedy authorized by law, the
24 commissioner may institute an action in the commissioner's name to
25 enjoin a violation of Subchapter C or a rule adopted under
26 Subchapter C. To sustain an action filed under this subsection, it
27 is not necessary to allege or prove that an adequate remedy at law

1 does not exist or that substantial or irreparable damage would
2 result from a continued violation of Subchapter C.

3 (b) The commissioner is not required to provide an appeal
4 bond in any action or proceeding to enforce Subchapter C.

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

8 SECTION 67. Section 158.104, Finance Code, is amended to
9 read as follows:

10 Sec. 158.104. MULTI-STATE EXAMINATION AUTHORITY. To
11 ensure that residential mortgage loan servicers to whom this
12 chapter applies operate in this state in compliance with this
13 chapter and with other law in accordance with this chapter, the
14 commissioner or the commissioner's designee may participate in
15 multi-state mortgage examinations as scheduled by the Conference of
16 State Bank Supervisors Multi-State Mortgage Committee or by the
17 Consumer Financial Protection Bureau in accordance with the
18 [~~Conference of State Bank Supervisors~~] protocol for such
19 examinations.

20 SECTION 68. Sections 180.002(17) and (21), Finance Code,
21 are amended to read as follows:

22 (17) "Regulatory official" means:

23 (A) with respect to Subtitles A, F, and G of this
24 title, the banking commissioner of Texas;

25 (B) with respect to Chapters 156 and 157 [~~except~~
26 ~~as provided by Paragraph (D)~~], the savings and mortgage lending
27 commissioner; and

1 (C) with respect to Chapters 342, 347, 348, and
2 351, the consumer credit commissioner[~~, and~~

3 [~~(D) with respect to credit unions, to the~~
4 ~~examination, investigation, or inspection of employees of credit~~
5 ~~union subsidiary organizations licensed under Chapter 156, and to~~
6 ~~the enforcement of compliance with this chapter and Chapter 156 by~~
7 ~~those employees, the credit union commissioner].~~

8 (21) "Rulemaking authority" means[~~+~~

9 [~~(A)] the finance commission[~~, except as~~
10 ~~provided by Paragraph (B); or~~~~

11 [~~(B) with respect to credit unions and the~~
12 ~~rulemaking authority granted by Section 15.4024, the Credit Union~~
13 ~~Commission].~~

14 SECTION 69. Section 180.056(a), Finance Code, is amended to
15 read as follows:

16 (a) An applicant for a residential mortgage loan originator
17 license must complete education courses that include[~~, at a~~
18 ~~minimum,~~] at least the minimum number of hours and type of courses
19 required by the S.A.F.E. Mortgage Licensing Act and the minimum
20 number of hours of training related to lending standards for the
21 nontraditional mortgage product marketplace required by that Act
22 and any additional requirements established by the regulatory
23 official.

24 SECTION 70. Section 180.251(a), Finance Code, is amended to
25 read as follows:

26 (a) The [~~Except as provided by Subsection (b), the~~] savings
27 and mortgage lending commissioner shall administer and enforce this

1 chapter with respect to individuals licensed under Chapter [~~156 or~~]
2 157.

3 SECTION 71. The following provisions of the Finance Code
4 are repealed:

5 (1) Section 15.4024;

6 (2) Sections 156.003, 156.004, 156.005, 156.105,
7 156.2015, 156.205, 156.304, and 156.405;

8 (3) Sections 156.101(a-1) and (a-2);

9 (4) Sections 156.201(b), (b-1), and (b-2);

10 (5) Sections 156.202(c), 156.203(c), 156.2041(b),
11 156.2042(b), 156.2043(b), 156.2044(c), 156.2045(b), 156.207(b),
12 (c), and (d), 156.2081(c), and 156.406(a) and (b);

13 (6) Section 157.012(d); and

14 (7) Section 180.251(b).

15 SECTION 72. The changes in law made by this Act do not
16 affect any pending proceeding or action brought under Subchapter D,
17 Chapter 156, Finance Code, as that subchapter existed immediately
18 before amendment by this Act, and the former law is continued in
19 effect for that purpose.

20 SECTION 73. The changes in law made by this Act apply only
21 to a license or registration issued or renewed on or after the
22 effective date of this Act. A license or registration issued or
23 renewed before the effective date of this Act is governed by the law
24 in effect on the date the license or registration was issued or
25 renewed, and the former law is continued in effect for that purpose.

26 SECTION 74. This Act takes effect September 1, 2013.