

1-1 By: Carona S.B. No. 1004
 1-2 (In the Senate - Filed March 1, 2013; March 12, 2013, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 April 4, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 4, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1004 By: Carona

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the regulation of residential mortgage loan
 1-22 originators, residential mortgage loan companies, mortgage
 1-23 bankers, and residential mortgage loan servicers under the
 1-24 jurisdiction of the Department of Savings and Mortgage Lending;
 1-25 changing a fee.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. The heading to Chapter 156, Finance Code, is
 1-28 amended to read as follows:

1-29 CHAPTER 156. RESIDENTIAL MORTGAGE LOAN COMPANIES [~~AND RESIDENTIAL~~
 1-30 ~~MORTGAGE LOAN ORIGINATORS~~]

1-31 SECTION 2. Section 156.001, Finance Code, is amended to
 1-32 read as follows:

1-33 Sec. 156.001. SHORT TITLE. This chapter may be cited as
 1-34 the Residential Mortgage Loan Company [~~and Residential Mortgage~~
 1-35 ~~Loan Originator~~] Licensing and Registration Act.

1-36 SECTION 3. Section 156.002, Finance Code, is amended by
 1-37 adding Subdivision (4-b) and amending Subdivisions (10-b) and (11)
 1-38 to read as follows:

1-39 (4-b) "Inspection" includes examination.

1-40 (10-b) "Qualifying individual" means an individual
 1-41 who is:

1-42 (A) licensed under Chapter 157 [~~this chapter~~] as
 1-43 a residential mortgage loan originator; and

1-44 (B) [~~is~~] designated by a residential mortgage
 1-45 loan company as the company's representative [~~for purposes of the~~
 1-46 ~~Nationwide Mortgage Licensing System and Registry~~].

1-47 (11) "Registered financial services company" means a
 1-48 person registered under Section 156.2012 [~~156.214~~].

1-49 SECTION 4. Section 156.003, Finance Code, is amended to
 1-50 read as follows:

1-51 Sec. 156.003. SECONDARY MARKET TRANSACTIONS. This chapter
 1-52 does not prohibit a residential mortgage loan originator sponsored
 1-53 by and conducting business for a licensed or registered residential
 1-54 mortgage loan company under this chapter from receiving
 1-55 compensation from a party other than the mortgage applicant for the
 1-56 sale, transfer, assignment, or release of rights on the closing of a
 1-57 mortgage transaction.

1-58 SECTION 5. Subsection (a), Section 156.004, Finance Code,
 1-59 is amended to read as follows:

1-60 (a) At the time an applicant submits an application to a

2-1 residential mortgage loan originator sponsored by and conducting
2-2 business for a licensed or registered residential mortgage loan
2-3 company under this chapter, the residential mortgage loan
2-4 originator shall provide to the applicant a disclosure that
2-5 specifies:

2-6 (1) the nature of the relationship between the
2-7 applicant and the residential mortgage loan originator;

2-8 (2) the duties the residential mortgage loan
2-9 originator has to the applicant; and

2-10 (3) how the residential mortgage loan originator will
2-11 be compensated.

2-12 SECTION 6. Section 156.005, Finance Code, is amended to
2-13 read as follows:

2-14 Sec. 156.005. AFFILIATED BUSINESS ARRANGEMENTS. Unless
2-15 prohibited by federal or state law, this chapter may not be
2-16 construed to prevent affiliated or controlled business
2-17 arrangements or loan origination services by or between residential
2-18 mortgage loan originators, sponsored by and conducting business for
2-19 a licensed or registered residential mortgage loan company under
2-20 this chapter, and other professionals if the residential mortgage
2-21 loan originator complies with all applicable federal and state laws
2-22 permitting those arrangements or services.

2-23 SECTION 7. The heading to Section 156.101, Finance Code, is
2-24 amended to read as follows:

2-25 Sec. 156.101. ADMINISTRATION AND ENFORCEMENT OF CHAPTER;
2-26 PARTICIPATION IN NATIONWIDE REGISTRY.

2-27 SECTION 8. Subsection (a), Section 156.101, Finance Code,
2-28 as amended by Chapters 1104 (H.B. 10) and 1317 (H.B. 2774), Acts of
2-29 the 81st Legislature, Regular Session, 2009, is reenacted and
2-30 amended to read as follows:

2-31 (a) ~~The [Except as provided by Subsection (a-2), the]~~
2-32 commissioner shall administer and enforce this chapter.

2-33 SECTION 9. Subsection (a), Section 156.102, Finance Code,
2-34 is amended to read as follows:

2-35 (a) The finance commission may adopt and enforce rules
2-36 necessary for the intent of or to ensure compliance with this
2-37 chapter~~[, except as provided by Section 15.4024 with respect to~~
2-38 ~~employees of credit union subsidiary organizations subject to~~
2-39 ~~regulation under Section 156.2015].~~

2-40 SECTION 10. Subsections (f) and (h), Section 156.104,
2-41 Finance Code, are amended to read as follows:

2-42 (f) The commissioner may remove a member of the advisory
2-43 committee if:

2-44 (1) the member does not maintain ~~[have at the time of~~
2-45 ~~appointment]~~ the qualifications required by Subsection (b); or

2-46 (2) the commissioner determines that the member cannot
2-47 discharge the member's duties for a substantial part of the term for
2-48 which the member is appointed.

2-49 (h) In addition to other powers and duties delegated to the
2-50 advisory committee by the commissioner, the advisory committee
2-51 shall advise the commissioner with respect to:

2-52 (1) the proposal and adoption of rules relating to the
2-53 mortgage industry~~;~~

2-54 ~~[(A) the licensing of residential mortgage loan~~
2-55 ~~originators or residential mortgage loan companies;~~

2-56 ~~[(B) the education and experience requirements~~
2-57 ~~for licensing residential mortgage loan originators; and~~

2-58 ~~[(C) the conduct and ethics of residential~~
2-59 ~~mortgage loan originators];~~

2-60 (2) the form of or format for any applications or other
2-61 documents under this chapter or Chapter 157; and

2-62 (3) the interpretation, implementation, and
2-63 enforcement of this chapter and Chapter 157.

2-64 SECTION 11. Section 156.105, Finance Code, is amended to
2-65 read as follows:

2-66 Sec. 156.105. STANDARD FORMS. (a) The finance
2-67 commission~~[r]~~ by rule~~[r]~~ shall adopt one or more standard forms for
2-68 use by a residential mortgage loan originator sponsored by and
2-69 conducting business for a licensed or registered residential

3-1 mortgage loan company under this chapter in representing that an
3-2 applicant for a residential mortgage loan is preapproved or has
3-3 prequalified for the loan.

3-4 (b) The finance commission shall adopt rules requiring a
3-5 residential mortgage loan originator licensed under Chapter 157
3-6 [~~this chapter~~] to use the forms adopted by the finance commission
3-7 under Subsection (a).

3-8 SECTION 12. The heading to Subchapter C, Chapter 156,
3-9 Finance Code, is amended to read as follows:

3-10 SUBCHAPTER C. RESIDENTIAL MORTGAGE LOAN COMPANY [~~AND RESIDENTIAL~~
3-11 ~~MORTGAGE LOAN ORIGINATOR~~] LICENSES AND REGISTRATION

3-12 SECTION 13. Subsections (a) and (c), Section 156.201,
3-13 Finance Code, are amended to read as follows:

3-14 (a) A person may not act in the capacity of, engage in the
3-15 business of, or advertise or hold that person out as engaging in or
3-16 conducting the business of a residential mortgage loan company in
3-17 this state unless the person holds an active residential mortgage
3-18 loan company license, is registered under Section 156.2012
3-19 [~~156.214~~], or is exempt under Section 156.202.

3-20 (c) Each residential mortgage loan company and the
3-21 company's qualifying individual licensed under Chapter 157 [~~this~~
3-22 ~~chapter~~] is responsible to the commissioner and members of the
3-23 public for any act or conduct performed by the residential mortgage
3-24 loan originator sponsored by or acting for the residential mortgage
3-25 loan company in connection with:

- 3-26 (1) the origination of a residential mortgage loan; or
- 3-27 (2) a transaction that is related to the origination
3-28 of a residential mortgage loan in which the qualifying individual
3-29 knew or should have known of the transaction.

3-30 SECTION 14. Subsections (a) and (a-1), Section 156.202,
3-31 Finance Code, are amended to read as follows:

3-32 (a) In this section, "depository institution," "dwelling,"
3-33 and "federal banking agency[~~7~~]" [~~and "immediate family member"~~]
3-34 have the meanings assigned by Section 180.002.

3-35 (a-1) The following [~~individuals or~~] entities[~~, and~~
3-36 ~~employees of those entities when acting for the benefit of those~~
3-37 ~~entities,~~] are exempt from this chapter:

3-38 (1) [~~a registered mortgage loan originator when acting~~
3-39 ~~for:~~

- 3-40 [~~(A) a depository institution,~~
- 3-41 [~~(B) a subsidiary of a depository institution~~

3-42 that is:

- 3-43 [~~(i) owned and controlled by the depository~~

3-44 ~~institution; and~~

- 3-45 [~~(ii) regulated by a federal banking~~

3-46 ~~agency; or~~

- 3-47 [~~(C) an institution regulated by the Farm Credit~~

3-48 ~~Administration,~~

- 3-49 [~~(2) an individual who offers or negotiates the terms~~

3-50 ~~of a residential mortgage loan with or on behalf of an immediate~~

- 3-51 ~~family member of the individual,~~

3-52 [~~(3) a licensed attorney who negotiates the terms of a~~

- 3-53 ~~residential mortgage loan on behalf of a client as an ancillary~~

3-54 ~~matter to the attorney's representation of the client, unless the~~

- 3-55 ~~attorney:~~

3-56 [~~(A) takes a residential mortgage loan~~

- 3-57 ~~application; and~~

3-58 [~~(B) offers or negotiates the terms of a~~

- 3-59 ~~residential mortgage loan,~~

3-60 [~~(4) an individual who offers or negotiates terms of a~~

- 3-61 ~~residential mortgage loan secured by a dwelling that serves as the~~

3-62 ~~individual's residence,~~

- 3-63 [~~(5)~~] a nonprofit organization providing self-help

3-64 housing that originates zero interest residential mortgage loans

- 3-65 for borrowers who have provided part of the labor to construct the

3-66 dwelling securing the loan;

- 3-67 (2) [~~(6)~~] a mortgage banker registered under Chapter

3-68 157;

- 3-69 (3) [~~(7)~~] any owner of residential real estate who in

4-1 any 12-consecutive-month period makes no more than five residential
4-2 mortgage loans to purchasers of the property for all or part of the
4-3 purchase price of the residential real estate against which the
4-4 mortgage is secured; and

4-5 (4) ~~(3)~~ an entity that is:
4-6 (A) a depository institution;
4-7 (B) a subsidiary of a depository institution that

4-8 is:
4-9 (i) owned and controlled by the depository
4-10 institution; and

4-11 (ii) regulated by a federal banking agency;

4-12 or
4-13 (C) an institution regulated by the Farm Credit
4-14 Administration~~;~~ and

4-15 ~~[(9) an individual who is exempt as provided by~~
4-16 ~~Section 180.003(b)].~~

4-17 SECTION 15. The heading to Section 156.203, Finance Code,
4-18 is amended to read as follows:

4-19 Sec. 156.203. APPLICATION ~~[FOR A LICENSE]~~; FEES.

4-20 SECTION 16. Subsections (a-1) and (a-2), Section 156.203,
4-21 Finance Code, are amended to read as follows:

4-22 (a-1) An application for a residential mortgage loan
4-23 company license ~~[and a residential mortgage loan originator~~
4-24 ~~license]~~ must be:

4-25 (1) in writing;

4-26 (2) under oath; and

4-27 (3) on the form prescribed by the commissioner.

4-28 (a-2) An application for a financial services company
4-29 registration under Section 156.2012 ~~[156.214]~~ must be:

4-30 (1) in writing;

4-31 (2) under oath; and

4-32 (3) on the form prescribed by the commissioner.

4-33 SECTION 17. The heading to Section 156.2041, Finance Code,
4-34 is amended to read as follows:

4-35 Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
4-36 ~~[LICENSES]: MORTGAGE COMPANY [AND RESIDENTIAL MORTGAGE LOAN~~
4-37 ~~ORIGINATORS]~~.

4-38 SECTION 18. Subsection (a), Section 156.2041, Finance Code,
4-39 is amended to read as follows:

4-40 (a) To be issued a mortgage company license, an applicant
4-41 must:

4-42 (1) submit a completed application together with the
4-43 payment of applicable fees through the Nationwide Mortgage
4-44 Licensing System and Registry;

4-45 (2) designate control persons for the mortgage company
4-46 through the Nationwide Mortgage Licensing System and Registry;

4-47 (3) designate an individual licensed as a residential
4-48 mortgage loan originator under Chapter 157 ~~[this chapter]~~ as the
4-49 company's qualifying individual;

4-50 (4) submit a completed branch application through the
4-51 Nationwide Mortgage Licensing System and Registry for each branch
4-52 office that engages in residential mortgage loan activity on
4-53 residential real estate located in this state;

4-54 (5) not be in violation of this chapter, a rule adopted
4-55 under this chapter, or any order previously issued by the
4-56 commissioner to the applicant;

4-57 (6) have the company name or assumed name properly
4-58 filed with either the secretary of state or with the appropriate
4-59 county clerk's office;

4-60 (7) maintain a physical office in this state; and

4-61 (8) provide financial statements and any other
4-62 information required by the commissioner.

4-63 SECTION 19. The heading to Section 156.2042, Finance Code,
4-64 is amended to read as follows:

4-65 Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
4-66 ~~[LICENSES]: CREDIT UNION SUBSIDIARY ORGANIZATION [AND RESIDENTIAL~~
4-67 ~~MORTGAGE LOAN ORIGINATORS]~~.

4-68 SECTION 20. Subsection (a), Section 156.2042, Finance Code,
4-69 is amended to read as follows:

- 5-1 (a) To be issued a credit union subsidiary organization
5-2 license, an applicant must:
5-3 (1) submit a completed application together with the
5-4 payment of applicable fees through the Nationwide Mortgage
5-5 Licensing System and Registry;
5-6 (2) designate control persons for the organization
5-7 through the Nationwide Mortgage Licensing System and Registry;
5-8 (3) designate an individual licensed as a residential
5-9 mortgage loan originator under Chapter 157 [~~this chapter~~] as the
5-10 company's qualifying individual;
5-11 (4) submit a completed branch application through the
5-12 Nationwide Mortgage Licensing System and Registry for each branch
5-13 office that engages in residential mortgage loan activity on
5-14 residential real estate located in this state; [~~and~~]
5-15 (5) not be in violation of this chapter, a rule adopted
5-16 under this chapter, or any order previously issued by the
5-17 commissioner to the applicant; and
5-18 (6) maintain a physical office in this state.

5-19 SECTION 21. The heading to Section 156.2043, Finance Code,
5-20 is amended to read as follows:

5-21 Sec. 156.2043. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
5-22 [~~LICENSES~~]: AUXILIARY MORTGAGE LOAN ACTIVITY COMPANY [~~AND~~
5-23 ~~RESIDENTIAL MORTGAGE LOAN ORIGINATORS~~].

5-24 SECTION 22. Subsection (a), Section 156.2043, Finance Code,
5-25 is amended to read as follows:

5-26 (a) To be issued an auxiliary mortgage loan activity company
5-27 license, an applicant must:

5-28 (1) submit a completed application together with the
5-29 payment of applicable fees through the Nationwide Mortgage
5-30 Licensing System and Registry;

5-31 (2) designate control persons for the company through
5-32 the Nationwide Mortgage Licensing System and Registry;

5-33 (3) designate an individual licensed as a residential
5-34 mortgage loan originator under Chapter 157 [~~this chapter~~] as the
5-35 company's qualifying individual; and

5-36 (4) not be in violation of this chapter, a rule adopted
5-37 under this chapter, or any order previously issued by the
5-38 commissioner to the applicant.

5-39 SECTION 23. The heading to Section 156.2044, Finance Code,
5-40 is amended to read as follows:

5-41 Sec. 156.2044. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
5-42 [~~LICENSES~~]: INDEPENDENT CONTRACTOR LOAN PROCESSOR OR UNDERWRITER
5-43 COMPANY [~~AND INDIVIDUAL LOAN PROCESSORS OR UNDERWRITERS~~].

5-44 SECTION 24. Subsections (a) and (b), Section 156.2044,
5-45 Finance Code, are amended to read as follows:

5-46 (a) To be issued an independent contractor loan processor or
5-47 underwriter company license under this chapter, an applicant must:

5-48 (1) submit a completed application together with the
5-49 payment of applicable fees through the Nationwide Mortgage
5-50 Licensing System and Registry;

5-51 (2) designate control persons for the company through
5-52 the Nationwide Mortgage Licensing System and Registry;

5-53 (3) designate an individual licensed as a residential
5-54 mortgage loan originator under Chapter 157 [~~this chapter~~] as the
5-55 company's qualifying individual; and

5-56 (4) not be in violation of this chapter, a rule adopted
5-57 under this chapter, or any order previously issued by the
5-58 commissioner to the applicant.

5-59 (b) An independent contractor loan processor or underwriter
5-60 company or a sponsored residential mortgage loan originator is not
5-61 authorized to originate residential mortgage loans with a license
5-62 issued under Subsection (a).

5-63 SECTION 25. Section 156.2046, Finance Code, is amended to
5-64 read as follows:

5-65 Sec. 156.2046. CONVICTION OF OFFENSE. A [~~For the purposes~~
5-66 ~~of Section 156.2041, 156.2042, 156.2043, 156.2044, or 156.2045, a~~]
5-67 person is considered to have been convicted of a criminal offense
5-68 if:

5-69 (1) a sentence is imposed on the person;

6-1 (2) the person received probation or community
6-2 supervision, including deferred adjudication or community service;
6-3 or

6-4 (3) the court deferred final disposition of the
6-5 person's case.

6-6 SECTION 26. Subsections (b) and (c), Section 156.206,
6-7 Finance Code, are amended to read as follows:

6-8 (b) The commissioner shall conduct criminal background and
6-9 credit history checks on a person required to be licensed under this
6-10 chapter [~~in accordance with Section 180.054, and, in connection~~
6-11 ~~with each application for a residential mortgage loan originator~~
6-12 ~~license or other individual license, the commissioner may conduct a~~
6-13 ~~criminal background check through the Department of Public Safety].~~

6-14 (c) The commissioner shall keep confidential any background
6-15 information obtained under this section and may not release or
6-16 disclose the information unless:

6-17 (1) the information is a public record at the time the
6-18 commissioner obtains the information; or

6-19 (2) the commissioner releases the information:

6-20 (A) under order from a court; or

6-21 (B) [~~with the permission of the applicant,~~

6-22 [~~(C) to a person through whom the applicant is~~
6-23 ~~conducting or will conduct business, or~~

6-24 [~~(D)~~] to a governmental agency.

6-25 SECTION 27. The heading to Section 156.207, Finance Code,
6-26 is amended to read as follows:

6-27 Sec. 156.207. ISSUANCE OF LICENSE [~~, PROVISIONAL LICENSE~~].

6-28 SECTION 28. Subsections (a-1) and (c), Section 156.208,
6-29 Finance Code, are amended to read as follows:

6-30 (a-1) A residential mortgage loan company license issued
6-31 under this chapter is valid through December 31 of the year of
6-32 issuance and may be renewed on or before its expiration date if the
6-33 residential mortgage loan company:

6-34 (1) pays to the commissioner a renewal fee in an amount
6-35 determined by the commissioner not to exceed \$375; [~~and~~]

6-36 (2) has not shown a pattern or practice of abusive
6-37 mortgage activity and has no civil judgments or liens that, in the
6-38 commissioner's opinion, directly impact the ability of the
6-39 residential mortgage loan company to conduct business while
6-40 safeguarding and protecting the public interest; and

6-41 (3) continues to meet the minimum requirements for
6-42 license issuance.

6-43 (c) An application for renewal shall be in the [~~The~~
6-44 ~~commissioner may require residential mortgage loan originators to~~
6-45 ~~submit requests for renewal on a~~] form prescribed by the
6-46 commissioner.

6-47 SECTION 29. Subsection (g), Section 156.209, Finance Code,
6-48 is amended to read as follows:

6-49 (g) A person whose application for or request to renew a
6-50 license has been denied is not eligible to be licensed for a period
6-51 of two years after the date the denial becomes final, or a shorter
6-52 period as determined by the commissioner after evaluating the
6-53 specific circumstances of the denial [~~person's subsequent~~
6-54 ~~application~~]. The finance commission may adopt rules to provide
6-55 conditions for which the commissioner may shorten the period of
6-56 ineligibility [~~time of disqualification~~].

6-57 SECTION 30. Subsections (b) and (b-1), Section 156.211,
6-58 Finance Code, are amended to read as follows:

6-59 (b) When the sponsorship of a residential mortgage loan
6-60 originator is terminated, the residential mortgage loan originator
6-61 or [~~and~~] the residential mortgage loan company shall immediately
6-62 notify the commissioner. [~~The residential mortgage loan~~
6-63 ~~originator's license then becomes inactive. The residential~~
6-64 ~~mortgage loan originator license may be activated if, before the~~
6-65 ~~license expires, a residential mortgage loan company files a~~
6-66 ~~request, accompanied by a \$25 fee, notifying the commissioner that~~
6-67 ~~the residential mortgage loan company will sponsor the residential~~
6-68 ~~mortgage loan originator and will assume responsibility for the~~
6-69 ~~actions of the residential mortgage loan originator.~~]

7-1 (b-1) Not later than the 10th day before a residential
 7-2 mortgage loan company begins doing business under an assumed name,
 7-3 the residential mortgage loan company shall file with the
 7-4 commissioner a copy of an assumed name certificate for each assumed
 7-5 name under which the residential mortgage loan company intends to
 7-6 conduct business and pay a \$25 registration fee for each assumed
 7-7 name. ~~[A residential mortgage loan originator may not conduct~~
 7-8 ~~business under any assumed name that is not the registered assumed~~
 7-9 ~~name of the sponsoring residential mortgage loan company.]~~

7-10 SECTION 31. Subsection (a), Section 156.213, Finance Code,
 7-11 is amended to read as follows:

7-12 (a) Each licensed residential mortgage loan company ~~[or~~
 7-13 ~~licensed residential mortgage loan originator, as required by the~~
 7-14 ~~commissioner,]~~ shall file a mortgage call report with the
 7-15 commissioner or the commissioner's authorized designee on a form
 7-16 prescribed by the commissioner or authorized designee. The report:

7-17 (1) is a statement of condition of the residential
 7-18 mortgage loan company and the company's operations~~[, or a statement~~
 7-19 ~~of condition of the residential mortgage loan originators sponsored~~
 7-20 ~~by the company, as applicable],~~ including financial statements and
 7-21 production activity volumes;

7-22 (2) must include any other information required by the
 7-23 commissioner; and

7-24 (3) must be filed as frequently as required by the
 7-25 commissioner.

7-26 SECTION 32. Section 156.214, Finance Code, is redesignated
 7-27 as Section 156.2012, Finance Code, and amended to read as follows:

7-28 Sec. 156.2012 ~~[156.214]~~. REGISTERED FINANCIAL SERVICES
 7-29 COMPANY. (a) A ~~[registered]~~ financial services company may
 7-30 perform the services of a a [another] residential mortgage loan
 7-31 company ~~[as]~~ if the company is registered ~~[were licensed as a~~
 7-32 ~~residential mortgage loan company]~~ under this chapter~~[, through~~
 7-33 ~~individuals who are the exclusive agents of the registered~~
 7-34 ~~financial services company].~~

7-35 (b) To be eligible to register as a registered financial
 7-36 services company, a person must:

7-37 (1) be a depository institution exempt from this
 7-38 chapter under Section 156.202(a-1)(4)(A) ~~[156.202(a-1)(8)(A)]~~ and
 7-39 chartered and regulated by ~~[the Office of Thrift Supervision or]~~
 7-40 the Office of the Comptroller of the Currency, or be a subsidiary of
 7-41 the institution;

7-42 (2) ~~[provide the commissioner with satisfactory~~
 7-43 ~~evidence of an undertaking of accountability in a form acceptable~~
 7-44 ~~to the commissioner, supported by a surety bond equal to \$1 million~~
 7-45 ~~to cover the person's responsibility for residential mortgage loan~~
 7-46 ~~company activities of each exclusive agent;~~

7-47 ~~[(3)]~~ provide a business plan satisfactory to the
 7-48 commissioner that sets forth the person's plan to:

7-49 (A) provide education to its sponsored
 7-50 residential mortgage loan originators;

7-51 (B) [exclusive agents,] handle consumer
 7-52 complaints relating to its sponsored residential mortgage loan
 7-53 originators; and

7-54 (C) [exclusive agents, and] supervise the
 7-55 residential mortgage loan origination activities of its sponsored
 7-56 residential mortgage loan originators [exclusive agents];

7-57 (3) [(4)] pay a [an annual] registration fee in an
 7-58 amount not to exceed \$500 [determined as follows:

7-59 [(A) if the registered financial services
 7-60 company has 2,000 or fewer exclusive agents acting in this state, an
 7-61 amount equal to the lesser of:

7-62 [(i) one-half of the license fee for a
 7-63 residential mortgage loan originator under Section 156.203(c)(1),
 7-64 multiplied by the number of exclusive agents under contract to act
 7-65 for the person in this state; or

7-66 [(ii) \$200,000;

7-67 [(B) if the registered financial services
 7-68 company has at least 2,001 but not more than 2,500 exclusive agents
 7-69 acting in this state, \$225,000;

8-1 [~~(C)~~ if the registered financial services
 8-2 company has at least 2,501 but not more than 3,000 exclusive agents
 8-3 acting in this state, \$250,000;
 8-4 [~~(D)~~ if the registered financial services
 8-5 company has at least 3,001 but not more than 5,000 exclusive agents
 8-6 acting in this state, \$300,000; or
 8-7 [~~(E)~~ if the registered financial services
 8-8 company has at least 5,001 exclusive agents acting in this state,
 8-9 \$350,000];

8-10 (4) ~~and~~
 8-11 ~~[(5)]~~ designate an officer of the person to be
 8-12 responsible for the activities of its sponsored residential
 8-13 mortgage loan originators;

8-14 (5) submit a completed application through the
 8-15 Nationwide Mortgage Licensing System and Registry together with the
 8-16 applicable fee required by Subdivision (3) or Subsection (c);

8-17 (6) obtain preapproval from the commissioner that the
 8-18 person meets the eligibility requirements for registration as a
 8-19 financial services company; and

8-20 (7) not be in violation of this chapter, a rule adopted
 8-21 under this chapter, or any order previously issued by the
 8-22 commissioner to the applicant ~~[the exclusive agents].~~

8-23 (c) If the commissioner determines that a person has met the
 8-24 requirements of Subsection (b) ~~[and Section 156.2045(a)]~~, the
 8-25 commissioner shall issue a registration to the person. The
 8-26 registration is valid for one year, expires on December 31 of each
 8-27 year, and must be renewed annually by meeting the requirements
 8-28 under Subsection (b) and paying a renewal fee in an amount not to
 8-29 exceed \$500. A person must renew an expired registration in the
 8-30 manner determined by the commissioner.

8-31 (d) A registered financial services company is subject to
 8-32 Subchapters D and E as if the company were licensed as a residential
 8-33 mortgage loan company.

8-34 SECTION 33. Subsections (a), (b), (c), and (h), Section
 8-35 156.301, Finance Code, are amended to read as follows:

8-36 (a) The commissioner may conduct inspections of a person
 8-37 licensed under this chapter or a residential mortgage loan
 8-38 originator who is licensed under Chapter 157 and sponsored by and
 8-39 conducting business for a licensed or registered residential
 8-40 mortgage loan company under this chapter as the commissioner
 8-41 determines necessary to determine whether the person or the
 8-42 residential mortgage loan originator is complying with this chapter
 8-43 and applicable rules. The inspections may include inspection of
 8-44 the books, records, documents, operations, and facilities of the
 8-45 person or the residential mortgage loan originator and access to
 8-46 any documents required under rules adopted under this chapter. The
 8-47 commissioner may share evidence of criminal activity gathered
 8-48 during an inspection or investigation with any state or federal law
 8-49 enforcement agency.

8-50 (b) On the signed written complaint of a person, the
 8-51 commissioner shall investigate the actions and records of a person
 8-52 licensed under this chapter or a residential mortgage loan
 8-53 originator who is licensed under Chapter 157 and sponsored by and
 8-54 conducting business for a licensed or registered residential
 8-55 mortgage loan company under this chapter if the complaint, or the
 8-56 complaint and documentary or other evidence presented in connection
 8-57 with the complaint, provides reasonable cause. The commissioner,
 8-58 before commencing an investigation, shall notify the ~~[a]~~
 8-59 residential mortgage loan company or the residential mortgage loan
 8-60 originator in writing of the complaint and that the commissioner
 8-61 intends to investigate the matter.

8-62 (c) For reasonable cause, the commissioner at any time may
 8-63 investigate a person licensed under this chapter or a residential
 8-64 mortgage loan originator who is licensed under Chapter 157 and
 8-65 sponsored by and conducting business for a licensed or registered
 8-66 residential mortgage loan company under this chapter to determine
 8-67 whether the person or the residential mortgage loan originator is
 8-68 complying with this chapter and applicable rules.

8-69 (h) The commissioner may require reimbursement of expenses

9-1 ~~[in an amount not to exceed \$325]~~ for each examiner ~~[a day]~~ for
9-2 on-site examination or investigation of a license holder
9-3 ~~[residential mortgage loan company]~~ if records are located out of
9-4 state or if the review is considered necessary beyond the routine
9-5 examination process. The finance commission by rule shall set the
9-6 maximum amount for the reimbursement of expenses authorized under
9-7 this subsection.

9-8 SECTION 34. Section 156.303, Finance Code, is amended by
9-9 amending Subsections (a), (a-1), (g), and (i) and adding Subsection
9-10 (k) to read as follows:

9-11 (a) The commissioner may order disciplinary action against
9-12 a licensed or registered residential mortgage loan company ~~[or a~~
9-13 ~~licensed residential mortgage loan originator]~~ when the
9-14 commissioner, after notice and opportunity for hearing, has
9-15 determined that the company ~~[person]~~:

9-16 (1) obtained a license or registration, including a
9-17 renewal of a license or registration, under this chapter through a
9-18 false or fraudulent representation or made a material
9-19 misrepresentation in an application for a license or registration
9-20 or for the renewal of a license or registration under this chapter;

9-21 (2) published or caused to be published an
9-22 advertisement related to the business of a residential mortgage
9-23 loan company ~~[or residential mortgage loan originator]~~ that:

9-24 (A) is misleading;
9-25 (B) is likely to deceive the public;
9-26 (C) in any manner tends to create a misleading
9-27 impression;

9-28 (D) fails to identify as a residential mortgage
9-29 loan company ~~[or residential mortgage loan originator]~~ the person
9-30 causing the advertisement to be published; or

9-31 (E) violates federal or state law;
9-32 (3) while performing an act for which a license or
9-33 registration under this chapter is required, engaged in conduct
9-34 that constitutes improper, fraudulent, or dishonest dealings;

9-35 (4) entered a plea of guilty or nolo contendere to, or
9-36 is convicted of, a criminal offense that is a felony or that
9-37 involves fraud or moral turpitude in a court of this or another
9-38 state or in a federal court;

9-39 (5) failed to use a fee collected in advance of closing
9-40 of a residential mortgage loan for a purpose for which the fee was
9-41 paid;

9-42 (6) charged or received, directly or indirectly, a fee
9-43 for assisting a mortgage applicant in obtaining a residential
9-44 mortgage loan before all of the services that the person agreed to
9-45 perform for the mortgage applicant are completed, and the proceeds
9-46 of the residential mortgage loan have been disbursed to or on behalf
9-47 of the mortgage applicant ~~[, except as provided by Section 156.304];~~

9-48 (7) failed within a reasonable time to honor a credit
9-49 card charge back or a check issued to the commissioner after the
9-50 commissioner has mailed a request for payment, including payment of
9-51 [of the check and] any applicable fees, [by certified mail] to the
9-52 person's last known business address as reflected by the
9-53 commissioner's records;

9-54 (8) paid compensation to a person who is not licensed,
9-55 registered, or exempt under this chapter or Chapter 157 for acts for
9-56 which a license or registration under this chapter or Chapter 157 is
9-57 required;

9-58 (9) induced or attempted to induce a party to a
9-59 contract to breach the contract so the person may make a residential
9-60 mortgage loan;

9-61 (10) published or circulated an unjustified or
9-62 unwarranted threat of legal proceedings in matters related to the
9-63 person's actions or services as a residential mortgage loan company
9-64 ~~[or residential mortgage loan originator, as applicable];~~

9-65 (11) established an association, by employment or
9-66 otherwise, with a person not licensed, registered, or exempt under
9-67 this chapter or Chapter 157 who was expected or required to act as a
9-68 residential mortgage loan company or residential mortgage loan
9-69 originator;

10-1 (12) aided, abetted, or conspired with a person to
10-2 circumvent the requirements of this chapter or Subchapter D,
10-3 Chapter 157;
10-4 (13) acted in the dual capacity of a residential
10-5 mortgage loan company [~~or residential mortgage loan originator~~] and
10-6 real estate broker, salesperson, or attorney in a transaction
10-7 without the knowledge and written consent of the mortgage applicant
10-8 or in violation of applicable requirements under federal law;
10-9 (14) discriminated against a prospective borrower on
10-10 the basis of race, color, religion, sex, national origin, ancestry,
10-11 familial status, or a disability;
10-12 (15) failed or refused on demand to:
10-13 (A) produce a document, book, or record
10-14 concerning a residential mortgage loan transaction conducted by a
10-15 [~~the~~] residential mortgage loan originator for inspection by the
10-16 commissioner or the commissioner's authorized personnel or
10-17 representative;
10-18 (B) give the commissioner or the commissioner's
10-19 authorized personnel or representative free access to the books or
10-20 records relating to the person's business kept by an officer,
10-21 agent, or employee of the person or any business entity through
10-22 which the person conducts residential mortgage loan origination
10-23 activities, including a subsidiary or holding company affiliate; or
10-24 (C) provide information requested by the
10-25 commissioner as a result of a formal or informal complaint made to
10-26 the commissioner;
10-27 (16) failed without just cause to surrender, on
10-28 demand, a copy of a document or other instrument coming into the
10-29 person's possession that was provided to the person by another
10-30 person making the demand or that the person making the demand is
10-31 under law entitled to receive;
10-32 (17) disregarded or violated this chapter, a rule
10-33 adopted by the finance commission under this chapter, or an order
10-34 issued by the commissioner under this chapter; or
10-35 (18) provided false information to the commissioner
10-36 during the course of an investigation or inspection.
10-37 (a-1) The commissioner may also order disciplinary action
10-38 after notice and opportunity for hearing against a licensed or
10-39 registered residential mortgage loan company [~~or a licensed~~
10-40 ~~residential mortgage loan originator~~] if the commissioner becomes
10-41 aware during the term of the license of any fact that would have
10-42 been grounds for denial of an original license if the fact had been
10-43 known by the commissioner on the date the license was issued.
10-44 (g) If a person fails to pay an administrative penalty that
10-45 has become final or fails to comply with an order of the
10-46 commissioner that has become final, in addition to any other remedy
10-47 provided under law the commissioner, on not less than 10 days'
10-48 notice to the person, may without a prior hearing suspend the
10-49 person's residential mortgage loan company license or registration
10-50 [~~or residential mortgage loan originator license~~]. The suspension
10-51 shall continue until the person has complied with the order or paid
10-52 the administrative penalty. During the period of suspension, the
10-53 person may not originate a residential mortgage loan and all
10-54 compensation received by the person during the period of suspension
10-55 is subject to forfeiture as provided by Section 156.406(b).
10-56 (i) An order revoking the license or registration of a
10-57 residential mortgage loan company [~~or the license of a residential~~
10-58 ~~mortgage loan originator~~] may provide that the person is
10-59 prohibited, without obtaining prior written consent of the
10-60 commissioner, from:
10-61 (1) engaging in the business of originating or making
10-62 residential mortgage loans; or
10-63 (2) [~~being an employee, officer, director, manager,~~
10-64 ~~shareholder, member, agent, contractor, or processor of a~~
10-65 ~~residential mortgage loan company or residential mortgage loan~~
10-66 ~~originator; or~~
10-67 [~~3~~] otherwise affiliating with a person for the
10-68 purpose of engaging in the business of originating or making
10-69 residential mortgage loans.

11-1 (k) The commissioner may, at the commissioner's discretion,
11-2 rescind or vacate any previously issued order.

11-3 SECTION 35. Subsection (a), Section 156.304, Finance Code,
11-4 is amended to read as follows:

11-5 (a) Before the completion of all services to be performed, a
11-6 residential mortgage loan originator sponsored by and conducting
11-7 business for a licensed or registered residential mortgage loan
11-8 company under this chapter may charge and receive, unless
11-9 prohibited by law, the following fees for services in assisting a
11-10 mortgage applicant to obtain a residential mortgage loan:

- 11-11 (1) a fee to obtain a credit report;
- 11-12 (2) a fee for the appraisal of the real estate;
- 11-13 (3) a fee for processing a residential mortgage loan
11-14 application;
- 11-15 (4) a fee for taking a residential mortgage loan
11-16 application;
- 11-17 (5) a fee for automated underwriting;
- 11-18 (6) a fee for a courier service;
- 11-19 (7) a fee to issue a loan commitment; or
- 11-20 (8) subject to Subsection (b), a fee for locking in an
11-21 interest rate.

11-22 SECTION 36. Section 156.305, Finance Code, is amended to
11-23 read as follows:

11-24 Sec. 156.305. RESTITUTION. The commissioner may order a
11-25 person to make restitution for any amount received by that person in
11-26 violation of this chapter. A residential mortgage loan company may
11-27 be required to make restitution for any amount received by a
11-28 sponsored residential mortgage loan originator in violation of
11-29 Chapter 157 [this chapter].

11-30 SECTION 37. Subsection (d), Section 156.401, Finance Code,
11-31 is amended to read as follows:

11-32 (d) A person [~~An individual~~] aggrieved by a ruling, order,
11-33 or decision of the commissioner has the right to appeal to a
11-34 district court in the county in which the hearing was held. An
11-35 appeal under this subsection is governed by Chapter 2001,
11-36 Government Code.

11-37 SECTION 38. Subsection (a), Section 156.406, Finance Code,
11-38 is amended to read as follows:

11-39 (a) A person, unless otherwise exempt, commits an offense if
11-40 the person conducts regulated activities under this chapter without
11-41 first obtaining a license or registration as required by Section
11-42 156.201, 156.2012, or 157.012, as applicable. [A person who is not
11-43 exempt under this chapter and who acts as a residential mortgage
11-44 loan originator without first obtaining a license required under
11-45 this chapter commits an offense.] An offense under this subsection
11-46 is a Class B misdemeanor. A second or subsequent conviction for an
11-47 offense under this subsection shall be punished as a Class A
11-48 misdemeanor.

11-49 SECTION 39. The heading to Subchapter F, Chapter 156,
11-50 Finance Code, is amended to read as follows:

11-51 SUBCHAPTER F. [~~MORTGAGE BROKER~~] RECOVERY FUND

11-52 SECTION 40. Subsection (b), Section 156.501, Finance Code,
11-53 is amended to read as follows:

11-54 (b) Subject to this subsection, the recovery fund shall be
11-55 used to reimburse residential mortgage loan applicants for actual
11-56 damages incurred because of acts committed by a residential
11-57 mortgage loan originator who was licensed [~~under this chapter or~~]
11-58 under Chapter 157 when the act was committed. The use of the fund
11-59 is limited to reimbursement for out-of-pocket losses caused by an
11-60 act by [+

11-61 [~~(1) a residential mortgage loan originator licensed~~
11-62 ~~under this chapter that constitutes a violation of Section~~
11-63 ~~156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12), (13), or~~
11-64 ~~(16) or 156.304, or~~

11-65 [~~(2)~~] a residential mortgage loan originator licensed
11-66 under Chapter 157 that constitutes a violation of Section
11-67 157.024(a)(2), (3), (5), (7), (8), (9), (10), (13), [~~or~~] (16),
11-68 (17), or (18) or 156.304(b).

11-69 SECTION 41. Subsection (a), Section 156.502, Finance Code,

12-1 is amended to read as follows:

12-2 (a) On an application for an original license or for renewal
12-3 of a license issued under Chapter 157 [~~this chapter~~], the
12-4 applicant, in addition to paying the original application fee or
12-5 renewal fee, shall pay a fee in an amount determined by the
12-6 commissioner, not to exceed \$20. The fee shall be deposited in the
12-7 recovery fund.

12-8 SECTION 42. Subsection (a), Section 156.503, Finance Code,
12-9 is amended to read as follows:

12-10 (a) An application for the recovery of actual damages from
12-11 the recovery fund under Section 156.504 may not be filed after the
12-12 fourth [~~second~~] anniversary of the date of the alleged act or
12-13 omission causing the actual damages or the date the act or omission
12-14 should reasonably have been discovered.

12-15 SECTION 43. Subsection (b), Section 156.504, Finance Code,
12-16 is amended to read as follows:

12-17 (b) The residential mortgage loan applicant is required to
12-18 show:

12-19 (1) that the applicant's claim is based on facts
12-20 allowing recovery under Section 156.501; and

12-21 (2) that the applicant:

12-22 (A) is not a spouse of the licensed residential
12-23 mortgage loan originator;

12-24 (B) is not a child, parent, grandchild,
12-25 grandparent, or sibling, including relationships by adoption, of
12-26 the licensed residential mortgage loan originator;

12-27 (C) is not a person sharing living quarters with
12-28 the licensed residential mortgage loan originator or a current or
12-29 former employer, employee, or associate of the licensed residential
12-30 mortgage loan originator;

12-31 (D) is not a person who has aided, abetted, or
12-32 participated other than as a victim with the licensed residential
12-33 mortgage loan originator in any activity that is illegal under
12-34 [~~Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12),~~
12-35 ~~(13), or (16), Section 156.304, or~~ Section 157.024(a)(2), (3),
12-36 (5), (7), (8), (9), (10), (13), [~~or~~] (16), (17), or (18) or
12-37 156.304(b), or is not the personal representative of a licensed
12-38 residential mortgage loan originator; and

12-39 (E) is not licensed as a residential mortgage
12-40 loan originator under Chapter 157 [~~this chapter~~] who is seeking to
12-41 recover any compensation in the transaction or transactions for
12-42 which the application for payment is made.

12-43 SECTION 44. Subsection (b), Section 156.505, Finance Code,
12-44 is amended to read as follows:

12-45 (b) A payment from the recovery fund may be made as provided
12-46 by Section 156.504 and this section. A payment for claims:

12-47 (1) arising out of the same transaction, including
12-48 interest, is limited in the aggregate to \$25,000, regardless of the
12-49 number of claimants; and

12-50 (2) against a single person licensed as a residential
12-51 mortgage loan originator under [~~this chapter or~~] Chapter 157
12-52 arising out of separate transactions, including interest, is
12-53 limited in the aggregate to \$50,000 until the fund has been
12-54 reimbursed for all amounts paid.

12-55 SECTION 45. Subsections (a), (c), and (d), Section 156.506,
12-56 Finance Code, are amended to read as follows:

12-57 (a) The commissioner may revoke or suspend a license issued
12-58 under Chapter 157 [~~this chapter~~] on proof that the commissioner has
12-59 made a payment from the recovery fund of any amount toward
12-60 satisfaction of a claim against a residential mortgage loan
12-61 originator under Chapter 157 [~~this chapter~~].

12-62 (c) A person on whose behalf payment was made from the
12-63 recovery fund is not eligible to receive a new license or have a
12-64 suspension lifted under this chapter or Chapter 157 until the
12-65 person has repaid in full, plus interest at the current legal rate,
12-66 the amount paid from the fund on the person's behalf and any costs
12-67 associated with investigating and processing the claim against the
12-68 fund or with collection of reimbursement for payments from the
12-69 fund.

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

SECTION 46. The heading to Chapter 157, Finance Code, is amended to read as follows:

CHAPTER 157. [~~REGISTRATION OF~~] MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SECTION 47. Sections 157.001 and 157.002, Finance Code, are designated as Subchapter A, Chapter 157, Finance Code, and a heading is added to that subchapter to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 48. Section 157.002, Finance Code, is amended by adding Subdivisions (3-a) and (5-a) to read as follows:

(3-a) "Inspection" includes examination.

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

SECTION 49. Chapter 157, Finance Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 157.0024. MORTGAGE INDUSTRY ADVISORY COMMITTEE. The mortgage industry advisory committee shall advise and assist the commissioner with respect to this chapter as provided by Section 156.104.

SECTION 50. Sections 157.003, 157.004, 157.005, 157.006, 157.0061, 157.0062, 157.009, and 157.010, Finance Code, are designated as Subchapter C, Chapter 157, Finance Code, and a heading is added to that subchapter to read as follows:

SUBCHAPTER C. REGISTRATION OF MORTGAGE BANKERS

SECTION 51. Subsection (b), Section 157.003, Finance Code, is amended to read as follows:

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

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

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

(3) have a valid federal employer identification number;

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

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

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

SECTION 52. Section 157.004, Finance Code, is amended to read as follows:

Sec. 157.004. EXEMPTIONS. This chapter does not apply to:

(1) a federally insured bank, savings bank, savings and loan association, Farm Credit System Institution, or credit union;

(2) a subsidiary of a federally insured bank, savings bank, savings and loan association, Farm Credit System Institution, or credit union;

(3) a residential mortgage loan company licensed ~~[person licensed as a mortgage broker]~~ under Chapter 156;

(4) an authorized lender licensed under Chapter 342; or

(5) the state or a governmental agency, political subdivision, or other instrumentality of the state, or an employee of the state or a governmental agency, political subdivision, or instrumentality of the state who is acting within the scope of the person's employment.

14-1 SECTION 53. Section 157.005, Finance Code, is amended to
 14-2 read as follows:

14-3 Sec. 157.005. UPDATE OF REGISTRATION. A mortgage banker
 14-4 shall update information contained in the registration not later
 14-5 than the 10th [~~30th~~] day after the date the information changes.

14-6 SECTION 54. Sections 157.007 and 157.008, Finance Code, are
 14-7 transferred to Subchapter B, Chapter 157, Finance Code, as added by
 14-8 this Act, and redesignated as Sections 157.0021 and 157.0022,
 14-9 Finance Code, to read as follows:

14-10 Sec. 157.0021 [~~157.007~~]. DISCLOSURE STATEMENT. (a) A
 14-11 mortgage banker that is a residential mortgage loan originator
 14-12 shall include a notice to a residential mortgage loan applicant
 14-13 with an application for a residential mortgage loan. The finance
 14-14 commission by rule shall adopt a standard disclosure form to be used
 14-15 by the mortgage banker. The form must:

14-16 (1) include the name, address, and toll-free telephone
 14-17 number for the Department of Savings and Mortgage Lending;

14-18 (2) contain information on how to file a complaint or
 14-19 recovery fund claim; and

14-20 (3) prescribe a method for proof of delivery to the
 14-21 consumer.

14-22 (b) A mortgage banker that indicates in its registration
 14-23 that it acts as a residential mortgage loan servicer shall provide
 14-24 to the borrower of each residential mortgage loan it services the
 14-25 following notice not later than the 30th day after the date the
 14-26 mortgage banker commences servicing the loan:

14-27 "COMPLAINTS REGARDING THE SERVICING OF YOUR MORTGAGE SHOULD
 14-28 BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING,
 14-29 _____ (street address of the Department
 14-30 of Savings and Mortgage Lending). A TOLL-FREE CONSUMER HOTLINE IS
 14-31 AVAILABLE AT _____ (telephone number of the Department of
 14-32 Savings and Mortgage Lending's toll-free consumer hotline)."

14-33 Sec. 157.0022 [~~157.008~~]. COMPLAINTS. (a) If the
 14-34 Department of Savings and Mortgage Lending receives a signed
 14-35 written complaint from a person concerning a mortgage banker, the
 14-36 commissioner shall notify the representative designated by the
 14-37 mortgage banker under Section 157.003(b) in writing of the
 14-38 complaint and provide a copy of the complaint to the
 14-39 representative.

14-40 (b) The commissioner may request documentary and other
 14-41 evidence considered by the commissioner as necessary to effectively
 14-42 evaluate the complaint, including correspondence, loan documents,
 14-43 and disclosures. A mortgage banker shall promptly provide any
 14-44 evidence requested by the commissioner.

14-45 (c) The commissioner may require the mortgage banker to
 14-46 resolve the complaint or to provide the commissioner with a
 14-47 response to the complaint. The commissioner may direct the
 14-48 mortgage banker in writing to take specific action to resolve the
 14-49 complaint.

14-50 SECTION 55. Section 157.009, Finance Code, is amended by
 14-51 adding Subsection (d-1) and amending Subsection (e) to read as
 14-52 follows:

14-53 (d-1) The commissioner, after review of the circumstances,
 14-54 may revoke the registration of a mortgage banker if the mortgage
 14-55 banker has had a license, registration, or other certification
 14-56 revoked by a state or federal regulatory authority.

14-57 (e) If the commissioner proposes to revoke a registration
 14-58 under Subsection (c), ~~or~~ (d), or (d-1), the mortgage banker is
 14-59 entitled to a hearing before the commissioner or a hearings
 14-60 officer, who shall propose a decision to the commissioner. The
 14-61 commissioner or hearings officer shall prescribe the time and place
 14-62 of the hearing. The hearing is governed by Chapter 2001, Government
 14-63 Code.

14-64 SECTION 56. Section 157.011, Finance Code, is transferred
 14-65 to Subchapter B, Chapter 157, Finance Code, as added by this Act,
 14-66 and redesignated as Section 157.0023, Finance Code, to read as
 14-67 follows:

14-68 Sec. 157.0023 [~~157.011~~]. RULEMAKING AUTHORITY. (a) The
 14-69 Finance Commission of Texas may adopt rules necessary to implement

15-1 or fulfill the purpose of this chapter.

15-2 (b) The Finance Commission of Texas may by rule adopt
15-3 standard forms for, and require the use of the forms by, a mortgage
15-4 banker who represents that an applicant for a loan is preapproved or
15-5 has prequalified for the loan.

15-6 (c) The finance commission may adopt rules under this
15-7 chapter as required to carry out the intentions of the federal
15-8 Secure and Fair Enforcement for Mortgage Licensing Act of 2008
15-9 (Pub. L. No. 110-289).

15-10 SECTION 57. Sections 157.012, 157.013, 157.014, 157.015,
15-11 157.016, 157.017, 157.019, 157.020, and 157.0201, Finance Code, are
15-12 designated as Subchapter D, Chapter 157, Finance Code, and a
15-13 heading is added to that subchapter to read as follows:

15-14 SUBCHAPTER D. LICENSING OF RESIDENTIAL MORTGAGE LOAN ORIGINATORS;
15-15 DISCLOSURES AND REQUIREMENTS

15-16 SECTION 58. The heading to Section 157.012, Finance Code,
15-17 is amended to read as follows:

15-18 Sec. 157.012. LICENSE REQUIRED FOR RESIDENTIAL MORTGAGE
15-19 LOAN ORIGINATORS [~~CERTAIN EMPLOYEES OF MORTGAGE BANKERS~~].

15-20 SECTION 59. Section 157.012, Finance Code, is amended by
15-21 amending Subsections (a) and (c) and adding Subsection (e) to read
15-22 as follows:

15-23 (a) An individual [~~An employee of a mortgage banker~~] may not
15-24 act or attempt to act in the capacity of a residential mortgage loan
15-25 originator unless the individual is exempt under Section 157.0121
15-26 or 180.003(b) or [~~employee~~]:

15-27 (1) is licensed under this chapter, sponsored by an
15-28 appropriate entity [~~a registered mortgage banker~~], and enrolled
15-29 with the Nationwide Mortgage Licensing System and Registry as
15-30 required by Section 180.052; and

15-31 (2) complies with other applicable requirements of
15-32 Chapter 180 and rules adopted by the finance commission under that
15-33 chapter.

15-34 (c) To be eligible to be licensed as a residential mortgage
15-35 loan originator, the individual [~~an employee of a mortgage banker~~],
15-36 in addition to meeting the requirements of Subsection (a), must:

15-37 (1) satisfy the commissioner as to the individual's
15-38 [~~employee's~~] good moral character, including the individual's
15-39 [~~employee's~~] honesty, trustworthiness, and integrity;

15-40 (2) not be in violation of this chapter, Chapter 180,
15-41 or any rules adopted under this chapter or Chapter 180;

15-42 (3) provide the commissioner with satisfactory
15-43 evidence that the individual [~~employee~~] meets the qualifications
15-44 provided by Chapter 180; and

15-45 (4) be a citizen of the United States or a lawfully
15-46 admitted alien.

15-47 (e) In this section, "appropriate entity" means an entity:

15-48 (1) that is licensed or registered under this chapter
15-49 or Chapter 156; and

15-50 (2) for which the individual is acting as a
15-51 residential mortgage loan originator.

15-52 SECTION 60. Subchapter D, Chapter 157, Finance Code, as
15-53 added by this Act, is amended by adding Section 157.0121 to read as
15-54 follows:

15-55 Sec. 157.0121. EXEMPTIONS FROM RESIDENTIAL MORTGAGE LOAN
15-56 ORIGINATOR REQUIREMENTS. (a) In this section, "depository
15-57 institution," "dwelling," "federal banking agency," and "immediate
15-58 family member" have the meanings assigned by Section 180.002.

15-59 (b) The following individuals are exempt from this chapter:

15-60 (1) a registered mortgage loan originator when acting
15-61 for:

15-62 (A) a depository institution;

15-63 (B) a subsidiary of a depository institution that

15-64 is:

15-65 (i) owned and controlled by the depository

15-66 institution; and

15-67 (ii) regulated by a federal banking agency;

15-68 or

15-69 (C) an institution regulated by the Farm Credit

16-1 Administration;
 16-2 (2) an individual who offers or negotiates the terms
 16-3 of a residential mortgage loan with or on behalf of an immediate
 16-4 family member of the individual;
 16-5 (3) a licensed attorney who negotiates the terms of a
 16-6 residential mortgage loan on behalf of a client as an ancillary
 16-7 matter to the attorney's representation of the client, unless the
 16-8 attorney:
 16-9 (A) takes a residential mortgage loan
 16-10 application; and
 16-11 (B) offers or negotiates the terms of a
 16-12 residential mortgage loan;
 16-13 (4) an individual who offers or negotiates terms of a
 16-14 residential mortgage loan secured by a dwelling that serves as the
 16-15 individual's residence;
 16-16 (5) any owner of residential real estate who in any
 16-17 12-consecutive-month period makes no more than five residential
 16-18 mortgage loans to purchasers of the property for all or part of the
 16-19 purchase price of the residential real estate against which the
 16-20 mortgage is secured; and
 16-21 (6) an individual who is exempt as provided by Section
 16-22 180.003(b).
 16-23 (c) Employees of the following entities, when acting for the
 16-24 benefit of those entities, are exempt from the licensing and other
 16-25 requirements of this chapter applicable to residential mortgage
 16-26 loan originators:
 16-27 (1) a nonprofit organization providing self-help
 16-28 housing that originates zero interest residential mortgage loans
 16-29 for borrowers who have provided part of the labor to construct the
 16-30 dwelling securing the loan;
 16-31 (2) any owner of residential real estate who in any
 16-32 12-consecutive-month period makes no more than five residential
 16-33 mortgage loans to purchasers of the property for all or part of the
 16-34 purchase price of the residential real estate against which the
 16-35 mortgage is secured; and
 16-36 (3) an entity that is:
 16-37 (A) a depository institution;
 16-38 (B) a subsidiary of a depository institution that
 16-39 is:
 16-40 (i) owned and controlled by the depository
 16-41 institution; and
 16-42 (ii) regulated by a federal banking agency;
 16-43 or
 16-44 (C) an institution regulated by the Farm Credit
 16-45 Administration.
 16-46 (d) A person is not required to obtain a license under this
 16-47 chapter to originate a loan subject to Chapter 342 or a loan
 16-48 governed by Section 50(a)(6), Article XVI, Texas Constitution, if
 16-49 the person:
 16-50 (1) is enrolled in the Nationwide Mortgage Licensing
 16-51 System and Registry;
 16-52 (2) is licensed under Chapter 342; and
 16-53 (3) makes consumer loans subject to:
 16-54 (A) Subchapter G, Chapter 342; and
 16-55 (B) Subchapter E or F, Chapter 342.
 16-56 (e) The finance commission may grant an exemption from the
 16-57 residential mortgage loan originator licensing requirements of
 16-58 this chapter to a municipality, county, community development
 16-59 corporation, or public or private grant administrator to the extent
 16-60 the entity is administering the Texas HOME Investment Partnerships
 16-61 program if the commission determines that granting the exemption is
 16-62 not inconsistent with the intentions of the federal Secure and Fair
 16-63 Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No.
 16-64 110-289).
 16-65 SECTION 61. Section 157.013, Finance Code, is amended by
 16-66 amending Subsection (b) and adding Subsection (d) to read as
 16-67 follows:
 16-68 (b) An application for a residential mortgage loan
 16-69 originator license must be accompanied by:

17-1 (1) an application fee in an amount determined by the
17-2 commissioner, not to exceed \$500; [7] and

17-3 (2) [by] a recovery fund fee in an amount determined by
17-4 the commissioner, not to exceed \$20.

17-5 (d) In addition to the disciplinary action by the
17-6 commissioner authorized under Section 157.024(a)(6), the
17-7 commissioner may collect a fee in an amount not to exceed \$50 for
17-8 any returned check or credit card charge back.

17-9 SECTION 62. Subchapter D, Chapter 157, Finance Code, as
17-10 added by this Act, is amended by adding Sections 157.0131 and
17-11 157.0132 to read as follows:

17-12 Sec. 157.0131. CONVICTION OF OFFENSE. A person is
17-13 considered to have been convicted of a criminal offense if:

17-14 (1) a sentence is imposed on the person;

17-15 (2) the person received probation or community
17-16 supervision, including deferred adjudication or community service;
17-17 or

17-18 (3) the court deferred final disposition of the
17-19 person's case.

17-20 Sec. 157.0132. CRIMINAL AND OTHER BACKGROUND CHECKS.

17-21 (a) On receipt of an application for a residential mortgage loan
17-22 originator license, the commissioner shall, at a minimum, conduct a
17-23 criminal background and credit history check of the applicant.

17-24 (b) The commissioner shall conduct criminal background and
17-25 credit history checks in accordance with Section 180.054, and, in
17-26 connection with each application for a residential mortgage loan
17-27 originator license or other individual license, the commissioner
17-28 may conduct a criminal background check through the Department of
17-29 Public Safety.

17-30 (c) The commissioner shall keep confidential any background
17-31 information obtained under this section and may not release or
17-32 disclose the information unless:

17-33 (1) the information is a public record at the time the
17-34 commissioner obtains the information; or

17-35 (2) the commissioner releases the information:

17-36 (A) under order from a court; or

17-37 (B) to a governmental agency.

17-38 (d) Notwithstanding Subsection (c), criminal history record
17-39 information obtained from the Federal Bureau of Investigation may
17-40 be released or disclosed only to a governmental entity or as
17-41 authorized by federal statute, federal rule, or federal executive
17-42 order.

17-43 SECTION 63. Subchapter D, Chapter 157, Finance Code, as
17-44 added by this Act, is amended by adding Section 157.0141 to read as
17-45 follows:

17-46 Sec. 157.0141. CONDITIONAL LICENSE. The commissioner may
17-47 issue a conditional license. The finance commission by rule shall
17-48 adopt reasonable terms and conditions for a conditional license.

17-49 SECTION 64. Section 157.015, Finance Code, is amended by
17-50 amending Subsections (a), (c), (d), and (g) and adding Subsections
17-51 (d-1) and (h) to read as follows:

17-52 (a) A residential mortgage loan originator license issued
17-53 under this chapter is valid through December 31 of the year of
17-54 issuance and may be renewed on or before its expiration date if the
17-55 residential mortgage loan originator:

17-56 (1) pays to the commissioner a renewal fee in an amount
17-57 determined by the commissioner not to exceed \$500 and a recovery
17-58 fund fee as provided by Section 156.502;

17-59 (2) continues to meet the minimum requirements for
17-60 license issuance; and

17-61 (3) provides the commissioner with satisfactory
17-62 evidence that the residential mortgage loan originator has
17-63 attended, during the term of the current license, continuing
17-64 education courses in accordance with the applicable requirements of
17-65 Chapter 180 [A residential mortgage loan originator license issued
17-66 under this chapter is valid for one year and may be renewed on or
17-67 before its expiration date].

17-68 (c) An application for renewal [of a residential mortgage
17-69 loan originator license] shall be in the form prescribed by the

18-1 commissioner [meet the requirements of Section 157.013].

18-2 (d) On receipt of a request for a renewal of a license issued
 18-3 under this subchapter, the commissioner may conduct a criminal
 18-4 background check under Section 157.0132 [An application for renewal
 18-5 of a residential mortgage loan originator license must meet all of
 18-6 the standards and qualifications for license renewal under Chapter
 18-7 180].

18-8 (d-1) A renewal fee is not refundable and may not be
 18-9 credited or applied to any other fee or indebtedness owed by the
 18-10 person paying the fee.

18-11 (g) The commissioner may deny the renewal application for a
 18-12 residential mortgage loan originator license if:

18-13 (1) the person seeking the renewal of the residential
 18-14 mortgage loan originator license is in violation of this chapter,
 18-15 Chapter 156, or Chapter 180, an applicable rule adopted under this
 18-16 chapter, Chapter 156, or Chapter 180, or any order previously
 18-17 issued to the person by the commissioner;

18-18 (2) the person seeking renewal of the residential
 18-19 mortgage loan originator license is in default in the payment of any
 18-20 administrative penalty, fee, charge, or other indebtedness owed
 18-21 under this title;

18-22 (3) the person seeking the renewal of the residential
 18-23 mortgage loan originator license is in default on a student loan
 18-24 administered by the Texas Guaranteed Student Loan Corporation,
 18-25 under Section 57.491, Education Code; or

18-26 (4) during the current term of the license, the
 18-27 commissioner becomes aware of any fact that would have been grounds
 18-28 for denial of an original license if the fact had been known by the
 18-29 commissioner on the date the license was granted.

18-30 (h) In addition to the disciplinary action by the
 18-31 commissioner authorized under Section 157.024(a)(6), the
 18-32 commissioner may collect a fee in an amount not to exceed \$50 for
 18-33 any returned check or credit card charge back.

18-34 SECTION 65. Subsection (a), Section 157.016, Finance Code,
 18-35 is amended to read as follows:

18-36 (a) A person whose residential mortgage loan originator
 18-37 license has expired may not engage in activities that require a
 18-38 license until the license has been reinstated or a new license has
 18-39 been issued [renewed].

18-40 SECTION 66. Subsection (g), Section 157.017, Finance Code,
 18-41 is amended to read as follows:

18-42 (g) A person whose application for or request to renew a
 18-43 license has been denied is not eligible to be licensed for a period
 18-44 of two years after the date the denial becomes final, or a shorter
 18-45 period as determined by the commissioner after evaluating the
 18-46 specific circumstances of the denial [person's subsequent
 18-47 application]. The finance commission may adopt rules to provide
 18-48 conditions for which the commissioner may shorten the period of
 18-49 ineligibility [time for eligibility for a new license].

18-50 SECTION 67. The heading to Section 157.019, Finance Code,
 18-51 is amended to read as follows:

18-52 Sec. 157.019. MODIFICATION OF LICENSE; CHANGE OF
 18-53 SPONSORSHIP.

18-54 SECTION 68. Section 157.019, Finance Code, is amended by
 18-55 amending Subsections (a) and (c) and adding Subsections (d) and (e)
 18-56 to read as follows:

18-57 (a) Before the 10th day preceding the effective date of an
 18-58 address change, [a mortgage banker employee who is] a residential
 18-59 mortgage loan originator shall notify the commissioner or
 18-60 authorized designee in writing of the new address.

18-61 (c) When the sponsorship of a residential mortgage loan
 18-62 originator is terminated, the residential mortgage loan originator
 18-63 or the former sponsoring entity licensed or registered under this
 18-64 chapter or Chapter 156 shall immediately notify the
 18-65 commissioner. The residential mortgage loan originator's license
 18-66 then becomes inactive. The residential mortgage loan originator
 18-67 license may be activated if, before the license expires, an entity
 18-68 licensed or registered under this chapter or Chapter 156 files a
 18-69 request, accompanied by a \$25 fee, notifying the commissioner that

19-1 ~~the entity will sponsor the residential mortgage loan originator~~
19-2 ~~and will assume responsibility for the actions of the residential~~
19-3 ~~mortgage loan originator [A mortgage banker employee who is a~~
19-4 ~~residential mortgage loan originator shall notify the commissioner~~
19-5 ~~or authorized designee in writing of a change of sponsorship. The~~
19-6 ~~notice must be accompanied by a fee of \$25].~~

19-7 (d) A residential mortgage loan originator may not conduct
19-8 business under any assumed name that is not the registered assumed
19-9 name of the entity licensed or registered under this chapter or
19-10 Chapter 156 that is sponsoring the originator.

19-11 (e) A fee under this section is not refundable and may not be
19-12 credited or applied to any other fee or indebtedness owed by the
19-13 person paying the fee.

19-14 SECTION 69. Section 157.020, Finance Code, is amended by
19-15 adding Subsection (a-1) to read as follows:

19-16 (a-1) A licensed residential mortgage loan originator, as
19-17 required by the commissioner, shall file a mortgage call report
19-18 with the commissioner or the commissioner's authorized designee on
19-19 a form prescribed by the commissioner or authorized designee. The
19-20 report:

19-21 (1) is a statement of condition of the residential
19-22 mortgage loan originator;

19-23 (2) must include any information required by the
19-24 commissioner; and

19-25 (3) must be filed as frequently as required by the
19-26 commissioner.

19-27 SECTION 70. Subchapter D, Chapter 157, Finance Code, as
19-28 added by this Act, is amended by adding Sections 157.02012,
19-29 157.02013, 157.02014, 157.02015, and 157.02016 to read as follows:

19-30 Sec. 157.02012. STANDARD FORMS. (a) The finance
19-31 commission by rule shall adopt one or more standard forms for use by
19-32 a residential mortgage loan originator, sponsored by and conducting
19-33 business for a registered mortgage banker under this chapter, in
19-34 representing that an applicant for a residential mortgage loan is
19-35 preapproved or has prequalified for the loan.

19-36 (b) The finance commission shall adopt rules requiring a
19-37 residential mortgage loan originator licensed under this chapter to
19-38 use the forms adopted by the finance commission under Subsection
19-39 (a).

19-40 Sec. 157.02013. SECONDARY MARKET TRANSACTIONS. This
19-41 chapter does not prohibit a residential mortgage loan originator
19-42 sponsored by and conducting business for a registered mortgage
19-43 banker under this chapter from receiving compensation from a party
19-44 other than the mortgage applicant for the sale, transfer,
19-45 assignment, or release of rights on the closing of a mortgage
19-46 transaction.

19-47 Sec. 157.02014. AFFILIATED BUSINESS ARRANGEMENTS. Unless
19-48 prohibited by federal or state law, this chapter may not be
19-49 construed to prevent affiliated or controlled business
19-50 arrangements or loan origination services by or between residential
19-51 mortgage loan originators sponsored by and conducting business for
19-52 a registered mortgage banker under this chapter and other
19-53 professionals if the residential mortgage loan originator complies
19-54 with all applicable federal and state laws permitting those
19-55 arrangements or services.

19-56 Sec. 157.02015. RULEMAKING AUTHORITY WITH RESPECT TO
19-57 RESIDENTIAL MORTGAGE LOAN ORIGINATORS. (a) The finance
19-58 commission may adopt rules to prohibit false, misleading, or
19-59 deceptive practices by residential mortgage loan originators but
19-60 may not adopt any other rules restricting competitive bidding or
19-61 advertising by residential mortgage loan originators. When
19-62 adopting rules under this subsection, the finance commission may
19-63 not restrict:

19-64 (1) the use of any medium for an advertisement;

19-65 (2) the personal appearance of or voice of a person in
19-66 an advertisement;

19-67 (3) the size or duration of an advertisement; or

19-68 (4) a residential mortgage loan originator's
19-69 advertisement under a trade name.

20-1 (b) The finance commission may adopt rules regarding books
 20-2 and records that a residential mortgage loan originator licensed
 20-3 under this chapter is required to keep, including the location at
 20-4 which the books and records must be kept.

20-5 (c) The finance commission shall consult with the
 20-6 commissioner when proposing and adopting rules under this section.

20-7 Sec. 157.02016. ADMINISTRATION OF SUBCHAPTER. The
 20-8 commissioner shall administer and enforce this subchapter.

20-9 SECTION 71. Sections 157.021, 157.0211, 157.022, 157.023,
 20-10 157.024, 157.0241, 157.025, 157.026, 157.027, 157.028, 157.029,
 20-11 157.030, and 157.031, Finance Code, are designated as Subchapter E,
 20-12 Chapter 157, Finance Code, and a heading is added to that subchapter
 20-13 to read as follows:

20-14 SUBCHAPTER E. ENFORCEMENT

20-15 SECTION 72. Section 157.021, Finance Code, is amended by
 20-16 amending Subsection (a) and adding Subsection (h) to read as
 20-17 follows:

20-18 (a) The commissioner may conduct an inspection of a person
 20-19 licensed as a residential mortgage loan originator as the
 20-20 commissioner determines necessary to determine whether the person
 20-21 is complying with this chapter, Chapter 180, and applicable rules.
 20-22 An inspection under this subsection may include inspection of the
 20-23 books, records, documents, operations, and facilities of the
 20-24 person. The commissioner may request the assistance and
 20-25 cooperation of the sponsoring mortgage banker in providing needed
 20-26 documents and records. The commissioner may not make a request of
 20-27 the sponsoring mortgage banker for documents and records unrelated
 20-28 to the person being investigated or inspected. The commissioner
 20-29 may share evidence of criminal activity gathered during an
 20-30 inspection or investigation with any state or federal law
 20-31 enforcement agency.

20-32 (h) The commissioner may require reimbursement of expenses
 20-33 for each examiner for an on-site examination or inspection of a
 20-34 licensed residential mortgage loan originator if records are
 20-35 located out of state and are not made available for examination or
 20-36 inspection by the examiner in this state. The finance commission by
 20-37 rule shall set the maximum amount for the reimbursement of expenses
 20-38 authorized under this subsection.

20-39 SECTION 73. Section 157.0211, Finance Code, is amended to
 20-40 read as follows:

20-41 Sec. 157.0211. MULTI-STATE EXAMINATION AUTHORITY OF
 20-42 RESIDENTIAL MORTGAGE LOAN SERVICER. To ensure that mortgage
 20-43 bankers that act as residential mortgage loan servicers operate in
 20-44 this state in compliance with this chapter and with other law in
 20-45 accordance with this chapter, the commissioner or the
 20-46 commissioner's designee may participate in multi-state mortgage
 20-47 examinations as scheduled by the Conference of State Bank
 20-48 Supervisors Multi-State Mortgage Committee or by the Consumer
 20-49 Financial Protection Bureau in accordance with the [Conference of
 20-50 State Bank Supervisors] protocol for such examinations.

20-51 SECTION 74. Subsection (a), Section 157.023, Finance Code,
 20-52 is amended to read as follows:

20-53 (a) The commissioner, after notice and opportunity for a
 20-54 hearing, may impose an administrative penalty on an individual who
 20-55 is licensed or required to be licensed under this chapter as a
 20-56 residential mortgage loan originator and who violates this chapter,
 20-57 Chapter 156, or a rule or order adopted under this chapter or
 20-58 Chapter 156.

20-59 SECTION 75. Subsections (a), (h), and (j), Section 157.024,
 20-60 Finance Code, are amended to read as follows:

20-61 (a) The commissioner may order disciplinary action against
 20-62 a licensed residential mortgage loan originator when the
 20-63 commissioner, after notice and opportunity for a hearing, has
 20-64 determined that the person:

20-65 (1) obtained a license, including a renewal of a
 20-66 license, under this chapter through a false or fraudulent
 20-67 representation or made a material misrepresentation in an
 20-68 application for a license or for the renewal of a license under this
 20-69 chapter;

21-1 (2) published or caused to be published an
 21-2 advertisement related to the business of a residential mortgage
 21-3 loan originator that:
 21-4 (A) was misleading;
 21-5 (B) was likely to deceive the public;
 21-6 (C) in any manner tended to create a misleading
 21-7 impression;
 21-8 (D) failed to identify as a licensed residential
 21-9 mortgage loan originator the person causing the advertisement to be
 21-10 published; or
 21-11 (E) violated federal or state law;
 21-12 (3) while performing an act for which a license under
 21-13 this chapter or Chapter 156 is required, engaged in conduct that
 21-14 constitutes improper, fraudulent, or dishonest dealings;
 21-15 (4) entered a plea of nolo contendere to or was
 21-16 convicted of a criminal offense that is a felony or that involves
 21-17 fraud or moral turpitude in a court of this or another state or in a
 21-18 federal court;
 21-19 (5) failed to use a fee collected in advance of closing
 21-20 a residential mortgage loan for a purpose for which the fee was
 21-21 paid;
 21-22 (6) failed within a reasonable time to honor a credit
 21-23 card charge back or a check issued to the commissioner after the
 21-24 commissioner mailed a request for payment, including any applicable
 21-25 fees, by mail to the person's last known home [~~business~~] address as
 21-26 reflected in the commissioner's records;
 21-27 (7) induced or attempted to induce a party to a
 21-28 contract to breach the contract so the person could make a
 21-29 residential mortgage loan;
 21-30 (8) published or circulated an unjustified or
 21-31 unwarranted threat of legal proceedings in matters related to the
 21-32 person's actions or services as a licensed residential mortgage
 21-33 loan originator;
 21-34 (9) aided, abetted, or conspired with a person to
 21-35 circumvent the requirements of this chapter or Chapter 156;
 21-36 (10) acted in the dual capacity of a licensed
 21-37 residential mortgage loan originator and real estate broker,
 21-38 salesperson, or attorney in a transaction without the knowledge and
 21-39 written consent of the mortgage applicant or in violation of
 21-40 applicable requirements under federal law;
 21-41 (11) discriminated against a prospective borrower on
 21-42 the basis of race, color, religion, sex, national origin, ancestry,
 21-43 familial status, or disability;
 21-44 (12) failed or refused on demand to:
 21-45 (A) produce a document, book, or record
 21-46 concerning a residential mortgage loan transaction conducted by the
 21-47 licensed residential mortgage loan originator for inspection by the
 21-48 commissioner or the commissioner's authorized personnel or
 21-49 representative;
 21-50 (B) give the commissioner or the commissioner's
 21-51 authorized personnel or representative free access to the books or
 21-52 records relating to the residential mortgage loan originator's
 21-53 business kept by any other person or any business entity through
 21-54 which the residential mortgage loan originator conducts
 21-55 residential mortgage loan origination activities; or
 21-56 (C) provide information requested by the
 21-57 commissioner as a result of a formal or informal complaint made to
 21-58 the commissioner;
 21-59 (13) failed without just cause to surrender, on
 21-60 demand, a copy of a document or other instrument coming into the
 21-61 residential mortgage loan originator's possession that was
 21-62 provided to the residential mortgage loan originator by another
 21-63 person making the demand or that the person making the demand is
 21-64 under law entitled to receive;
 21-65 (14) disregarded or violated this chapter, Chapter
 21-66 156, a rule adopted under this chapter or Chapter 156, or an order
 21-67 issued by the commissioner under this chapter or Chapter 156;
 21-68 (15) provided false information to the commissioner
 21-69 during the course of an investigation or inspection;

22-1 (16) paid compensation to a person who is not licensed
 22-2 or exempt under this chapter for acts for which a license under this
 22-3 chapter or Chapter 156 is required; ~~[or]~~

22-4 (17) established an association, by employment or
 22-5 otherwise, with a person not licensed, registered, or exempt under
 22-6 this chapter or Chapter 156 who was expected or required to act as a
 22-7 residential mortgage loan originator or residential mortgage loan
 22-8 company; or

22-9 (18) charged or received, directly or indirectly, a
 22-10 fee for assisting a mortgage applicant in obtaining a residential
 22-11 mortgage loan under Chapter 156 before all of the services that the
 22-12 person agreed to perform for the mortgage applicant are completed,
 22-13 and the proceeds of the residential mortgage loan have been
 22-14 disbursed to or on behalf of the mortgage applicant, except as
 22-15 provided by Section 156.304.

22-16 (h) If a residential mortgage loan originator fails to pay
 22-17 an administrative penalty that has become final or fails to comply
 22-18 with an order of the commissioner that has become final, in addition
 22-19 to any other remedy provided under law, the commissioner, on not
 22-20 less than 10 days' notice to the residential mortgage loan
 22-21 originator, may without a prior hearing suspend the residential
 22-22 mortgage loan originator's license. The suspension continues until
 22-23 the residential mortgage loan originator has complied with the
 22-24 administrative order or paid the administrative penalty. During
 22-25 the period of suspension, the residential mortgage loan originator
 22-26 may not originate a residential mortgage loan and all compensation
 22-27 received by the residential mortgage loan originator during the
 22-28 period of suspension is subject to forfeiture as provided by
 22-29 Section 157.031(a-1)~~[, as defined by Section 180.002]~~.

22-30 (j) An order revoking the license of a residential mortgage
 22-31 loan originator may provide that the person is prohibited, without
 22-32 previously obtaining written consent of the commissioner, from:

22-33 (1) engaging in the business of originating or making
 22-34 residential mortgage loans~~[, as defined by Section 180.002]~~;

22-35 (2) otherwise affiliating with a person for the
 22-36 purpose of engaging in the business of originating or making
 22-37 residential mortgage loans~~[, as defined by Section 180.002]~~; and

22-38 (3) being an employee, officer, director, manager,
 22-39 shareholder, member, agent, contractor, or processor of a mortgage
 22-40 banker, residential mortgage loan company, or residential mortgage
 22-41 loan originator for a residential mortgage loan company.

22-42 SECTION 76. Subsection (e), Section 157.0241, Finance Code,
 22-43 is amended to read as follows:

22-44 (e) This section does not limit the authority of the
 22-45 commissioner to take disciplinary action against a residential
 22-46 mortgage loan originator for a violation of this chapter, Chapter
 22-47 156, or the rules adopted by the finance commission under this
 22-48 chapter or Chapter 156. The repayment in full to the recovery fund
 22-49 of all obligations of a residential mortgage loan originator does
 22-50 not nullify or modify the effect of any other disciplinary
 22-51 proceeding brought under this chapter or Chapter 156.

22-52 SECTION 77. Section 157.025, Finance Code, is amended to
 22-53 read as follows:

22-54 Sec. 157.025. RESTITUTION. The commissioner may order a
 22-55 residential mortgage loan originator to make restitution for any
 22-56 amount received by that person in violation of this chapter or
 22-57 Chapter 156.

22-58 SECTION 78. Section 157.026, Finance Code, is amended by
 22-59 amending Subsection (b) and adding Subsection (e) to read as
 22-60 follows:

22-61 (b) If the commissioner proposes to suspend or revoke a
 22-62 license of a residential mortgage loan originator or if the
 22-63 commissioner refuses to issue or renew ~~[a license to an applicant~~
 22-64 ~~for]~~ a residential mortgage loan originator license ~~[or person~~
 22-65 ~~requesting a renewal of a residential mortgage loan originator~~
 22-66 ~~license]~~ under this chapter, the applicant or license holder is
 22-67 entitled to a hearing before the commissioner or an administrative
 22-68 law judge who shall make a proposal for decision to the
 22-69 commissioner. The commissioner or administrative law judge shall

23-1 prescribe the time and place of the hearing. The hearing is
23-2 governed by Chapter 2001, Government Code.

23-3 (e) The commissioner may, in the commissioner's discretion,
23-4 rescind or vacate any previously issued revocation order.

23-5 SECTION 79. Subsection (a), Section 157.027, Finance Code,
23-6 is amended to read as follows:

23-7 (a) A residential mortgage loan applicant injured by a
23-8 violation of this chapter or Chapter 156 by a residential mortgage
23-9 loan originator may bring an action for recovery of actual monetary
23-10 damages and reasonable attorney's fees and court costs.

23-11 SECTION 80. Subsection (b), Section 157.030, Finance Code,
23-12 is amended to read as follows:

23-13 (b) This section does not limit or preclude the liability of
23-14 a residential mortgage loan originator for:

23-15 (1) failing to comply with this chapter, Chapter 156,
23-16 or a rule adopted under this chapter or Chapter 156;

23-17 (2) failing to comply with a provision of or duty
23-18 arising under an agreement with a residential mortgage loan
23-19 applicant under this chapter or Chapter 156; or

23-20 (3) violating any other state or federal law.

23-21 SECTION 81. Section 157.031, Finance Code, is amended by
23-22 amending Subsection (a) and adding Subsection (a-1) to read as
23-23 follows:

23-24 (a) An individual who is not exempt under this chapter or
23-25 other applicable law and who acts as a residential mortgage loan
23-26 originator without first obtaining a license required under this
23-27 chapter commits an offense [~~A person commits an offense if the~~
23-28 ~~person is an employee of a mortgage banker, is not exempt under this~~
23-29 ~~chapter, and acts as a residential mortgage loan originator without~~
23-30 ~~first obtaining a license required under this chapter~~]. An offense
23-31 under this subsection is a Class B misdemeanor. A second or
23-32 subsequent conviction for an offense under this subsection is a
23-33 Class A misdemeanor.

23-34 (a-1) An individual who received money, or the equivalent of
23-35 money, as a fee or profit because of or in consequence of the
23-36 individual acting as a residential mortgage loan originator without
23-37 an active license or being exempt under this chapter is liable for
23-38 damages in an amount that is not less than the amount of the fee or
23-39 profit received and not to exceed three times the amount of the fee
23-40 or profit received, as may be determined by the court. An aggrieved
23-41 person may recover damages under this subsection in a court.

23-42 SECTION 82. Subchapter E, Chapter 157, Finance Code, as
23-43 added by this Act, is amended by adding Section 157.032 to read as
23-44 follows:

23-45 Sec. 157.032. POWERS OF COMMISSIONER. (a) In addition to
23-46 any other action, proceeding, or remedy authorized by law, the
23-47 commissioner may institute an action in the commissioner's name to
23-48 enjoin a violation of Subchapter D or a rule adopted under
23-49 Subchapter D. To sustain an action filed under this subsection, it
23-50 is not necessary to allege or prove that an adequate remedy at law
23-51 does not exist or that substantial or irreparable damage would
23-52 result from a continued violation of Subchapter D.

23-53 (b) The commissioner is not required to provide an appeal
23-54 bond in any action or proceeding to enforce Subchapter D.

23-55 (c) The commissioner may authorize specific employees to
23-56 conduct hearings and make recommendations for final decisions in
23-57 contested cases.

23-58 SECTION 83. Section 158.104, Finance Code, is amended to
23-59 read as follows:

23-60 Sec. 158.104. MULTI-STATE EXAMINATION AUTHORITY. To ensure
23-61 that residential mortgage loan servicers to whom this chapter
23-62 applies operate in this state in compliance with this chapter and
23-63 with other law in accordance with this chapter, the commissioner or
23-64 the commissioner's designee may participate in multi-state
23-65 mortgage examinations as scheduled by the Conference of State Bank
23-66 Supervisors Multi-State Mortgage Committee or by the Consumer
23-67 Financial Protection Bureau in accordance with the [~~Conference of~~
23-68 ~~State Bank Supervisors~~] protocol for such examinations.

23-69 SECTION 84. Subdivisions (17) and (21), Section 180.002,

24-1 Finance Code, are amended to read as follows:

24-2 (17) "Regulatory official" means:

24-3 (A) with respect to Subtitles A, F, and G of this
24-4 title, the banking commissioner of Texas;

24-5 (B) with respect to Chapters 156 and 157 [~~except~~
24-6 ~~as provided by Paragraph (D)~~], the savings and mortgage lending
24-7 commissioner; and

24-8 (C) with respect to Chapters 342, 347, 348, and
24-9 351, the consumer credit commissioner[~~, and~~

24-10 [~~(D) with respect to credit unions, to the~~
24-11 ~~examination, investigation, or inspection of employees of credit~~
24-12 ~~union subsidiary organizations licensed under Chapter 156, and to~~
24-13 ~~the enforcement of compliance with this chapter and Chapter 156 by~~
24-14 ~~those employees, the credit union commissioner].~~

24-15 (21) "Rulemaking authority" means[~~+~~

24-16 [~~(A)~~] the finance commission[~~, except as~~
24-17 ~~provided by Paragraph (B); or~~

24-18 [~~(B) with respect to credit unions and the~~
24-19 ~~rulemaking authority granted by Section 15.4024, the Credit Union~~
24-20 ~~Commission].~~

24-21 SECTION 85. Subsection (a), Section 180.056, Finance Code,
24-22 is amended to read as follows:

24-23 (a) An applicant for a residential mortgage loan originator
24-24 license must complete education courses that include[~~, at a~~
24-25 ~~minimum,~~] at least the minimum number of hours and type of courses
24-26 required by the S.A.F.E. Mortgage Licensing Act and the minimum
24-27 number of hours of training related to lending standards for the
24-28 nontraditional mortgage product marketplace required by that Act
24-29 and any additional requirements established by the regulatory
24-30 official and adopted by rule of the rulemaking authority.

24-31 SECTION 86. Subsection (a), Section 180.251, Finance Code,
24-32 is amended to read as follows:

24-33 (a) The [~~Except as provided by Subsection (b), the~~] savings
24-34 and mortgage lending commissioner shall administer and enforce this
24-35 chapter with respect to individuals licensed under Chapter [~~156 or~~
24-36 157].

24-37 SECTION 87. The following provisions of the Finance Code
24-38 are repealed:

24-39 (1) Section 15.4024;

24-40 (2) Sections 156.2015, 156.205, and 156.405;

24-41 (3) Subsections (a-1) and (a-2), Section 156.101;

24-42 (4) Subsections (b), (b-1), and (b-2), Section
24-43 156.201;

24-44 (5) Subsection (b), Section 156.102, Subsection (c),
24-45 Section 156.202, Subsection (c), Section 156.203, Subsection (b),
24-46 Section 156.2041, Subsection (b), Section 156.2042, Subsection
24-47 (b), Section 156.2043, Subsection (c), Section 156.2044, Section
24-48 156.2045, Subsection (a), Section 156.206, Subsections (b), (c),
24-49 and (d), Section 156.207, and Subsection (c), Section 156.2081;

24-50 (6) Subsections (b-1), (b-2), and (j), Section
24-51 156.208;

24-52 (7) Subsection (f), Section 157.003, Finance Code, as
24-53 added by Chapter 655 (Senate Bill No. 1124), Acts of the 82nd
24-54 Legislature, Regular Session, 2011;

24-55 (8) Subsection (d), Section 157.012, and Subsection
24-56 (b), Section 157.015; and

24-57 (9) Subsection (b), Section 180.251.

24-58 SECTION 88. The changes in law made by this Act do not
24-59 affect any pending proceeding or action brought under Subchapter D,
24-60 Chapter 156, Finance Code, as that subchapter existed immediately
24-61 before amendment by this Act, and the former law is continued in
24-62 effect for that purpose.

24-63 SECTION 89. The changes in law made by this Act apply only
24-64 to a license or registration issued or renewed on or after the
24-65 effective date of this Act. A license or registration issued or
24-66 renewed before the effective date of this Act is governed by the law
24-67 in effect on the date the license or registration was issued or
24-68 renewed, and the former law is continued in effect for that purpose.

25-1 SECTION 90. This Act takes effect September 1, 2013.

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