

By: Deshotel

H.B. No. 3472

A BILL TO BE ENTITLED

AN ACT

relating to the investment and use of excess residential mortgage loan originator recovery fund fees; changing a fee.

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

SECTION 1. Sections 156.501(b) and (c), Finance Code, are amended to read as follows:

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

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

1 SECTION 2. Section 156.502, Finance Code, is amended to
2 read as follows:

3 Sec. 156.502. FUNDING. (a) On an application for an
4 original license [~~or for renewal of a license~~] issued under Chapter
5 157, the applicant, in addition to paying the original application
6 fee [~~or renewal fee~~], shall pay a fee in the [~~an~~] amount of
7 [~~determined by the commissioner, not to exceed~~] \$20. The fee shall
8 be deposited in the recovery fund.

9 (b) If the balance remaining in the recovery fund at the end
10 of a calendar year is more than \$3.5 million, the amount of money in
11 excess of that amount shall be remitted by the commissioner to the
12 comptroller for deposit in the Texas Financial Education Endowment
13 account as provided by Section 393.628(c-1) [~~available to the~~
14 ~~commissioner to offset the expenses of participating in and sharing~~
15 ~~information with the Nationwide Mortgage Licensing System and~~
16 ~~Registry in accordance with Chapter 180~~].

17 SECTION 3. Section 157.013(b), Finance Code, is amended to
18 read as follows:

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

21 (1) an application fee in an amount determined by the
22 commissioner, not to exceed \$500; and

23 (2) for an original license, a recovery fund fee in the
24 [~~an~~] amount of [~~determined by the commissioner, not to exceed~~] \$20.

25 SECTION 4. Section 393.628, Finance Code, is amended by
26 amending Subsections (c) and (f) and adding Subsection (c-1) to
27 read as follows:

1 (c) Except as provided by Subsection (c-1), the [The] Texas
2 Financial Education Endowment shall be administered by the finance
3 commission to support statewide financial education and consumer
4 credit building activities and programs, including:

5 (1) production and dissemination of approved
6 financial education materials at licensed locations;

7 (2) advertising, marketing, and public awareness
8 campaigns to improve the credit profiles and credit scores of
9 consumers in this state;

10 (3) school and youth-based financial literacy and
11 capability;

12 (4) credit building and credit repair;

13 (5) financial coaching and consumer counseling;

14 (6) bank account enrollment and incentives for
15 personal savings; and

16 (7) other consumer financial education and
17 asset-building initiatives as considered appropriate by the
18 finance commission.

19 (c-1) The comptroller shall deposit money remitted by the
20 savings and mortgage lending commissioner under Section 156.502(b)
21 into a subaccount of the Texas Financial Education Endowment
22 account. Money in the subaccount must be segregated from the money
23 remitted to the comptroller under Subsection (b) and may only be
24 used for purposes authorized by this subsection. The finance
25 commission shall administer the money deposited to the subaccount
26 and with that money:

27 (1) shall provide a grant in an amount of not less than

1 \$100,000 each year to a statewide nonprofit organization that
2 supports organizations described by Section 156.202(a-1)(1) and
3 that are registered under Chapter 158 for the purposes of:

4 (A) servicing third-party mortgage loans;

5 (B) providing financial education to consumers
6 that relates to mortgage loans; and

7 (C) administering disaster repair programs for
8 consumers with mortgage loans;

9 (2) shall provide support for statewide financial
10 education, activities, and programs specifically related to
11 mortgage loans for consumers, including activities and programs
12 described by Subsection (c);

13 (3) if a governor's declaration of a state of disaster
14 under Section 418.014, Government Code, is in effect, may provide
15 direct mortgage assistance for residence homesteads, as defined by
16 Section 11.13, Tax Code, as needed due to the disaster; and

17 (4) subject to the limits under Section 156.505, may
18 provide reimbursements to a residential mortgage loan applicant who
19 submits an application under Section 156.504 and who the
20 commissioner determines has a valid claim, unless the claim is
21 against a residential mortgage loan originator who conducted
22 activities requiring a license under this chapter without a license
23 under Chapter 157.

24 (f) The finance commission shall adopt rules to administer
25 this section, including rules governing implementation of
26 Subsection (c-1)(1) that:

27 (1) ensure a grant awarded under that subdivision is

1 used for a public purpose described by that subdivision; and
2 (2) provide a means of recovering money awarded that
3 is not used in compliance with that subdivision.

4 SECTION 5. Sections 156.501(d) and (f), Finance Code, are
5 repealed.

6 SECTION 6. Section 156.501(c), Finance Code, as amended by
7 this Act, applies only to an investment made on or after the
8 effective date of this Act. An investment made before the effective
9 date of this Act is governed by the law as it existed immediately
10 before that date, and that law is continued in effect for that
11 purpose.

12 SECTION 7. This Act takes effect September 1, 2021.