

By: Lucio

S.B. No. 1791

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the investment and use of excess residential mortgage  
3 loan originator recovery fund fees; changing a fee.

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

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

7 (b) Subject to this subsection and Section [156.502](#)(b), the  
8 recovery fund shall be used to reimburse residential mortgage loan  
9 applicants for actual damages incurred because of acts committed by  
10 a residential mortgage loan originator who was licensed under  
11 Chapter [157](#) when the act was committed. The use of the fund is  
12 limited to reimbursement for out-of-pocket losses caused by an act  
13 by a residential mortgage loan originator licensed under Chapter  
14 [157](#) that constitutes a violation of Section [157.024](#)(a)(2), (3),  
15 (5), (7), (8), (9), (10), (13), (16), (17), or (18) or [156.304](#)(b).

16 (c) Amounts in the recovery fund may be invested and  
17 reinvested in accordance with Chapter [2256](#), Government Code, and  
18 under the prudent person standard described in Section [11b](#), Article  
19 VII, Texas Constitution [~~in the same manner as funds of the~~  
20 ~~Employees Retirement System of Texas~~], and the interest from these  
21 investments shall be deposited to the credit of the fund. An  
22 investment may not be made under this subsection if the investment  
23 will impair the necessary liquidity required to satisfy claims  
24 [~~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.