

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SECTION 1. Section 156.2041, Finance Code, is amended to read as follows:

Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: MORTGAGE COMPANY. ~~[(a)]~~ To be issued a mortgage company license, an applicant must:

- (1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;
- (2) designate control persons for the mortgage company through the Nationwide Mortgage Licensing System and Registry;
- (3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying

SENATE VERSION (IE)

SECTION 1. Section 13.016, Finance Code, is amended to read as follows:

Sec. 13.016. RECOVERY FUND. (a) Except as provided by Subchapter G, Chapter 156, the ~~[The]~~ savings and mortgage lending commissioner shall establish, administer, and maintain one recovery fund for the purposes of Chapters 156 and 157. The recovery fund shall be administered and maintained under Subchapter F, Chapter 156.

(b) The savings and mortgage lending commissioner's authority under this section includes the authority to~~[:~~

~~[(1) set fee amounts under Chapters 156 and 157 for deposit in the recovery fund; and~~

~~[(2)]~~ enforce disciplinary action as provided by Chapters 156 and 157 for a person's failure to comply with the applicable provisions of those chapters relating to the recovery fund and with applicable rules adopted under those chapters.

SECTION 2. Same as House version.

CONFERENCE

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

individual;

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

(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;

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

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

~~[(8)]~~ provide financial statements and any other information required by the commissioner.

SECTION 2. Section 156.2042, Finance Code, is amended to read as follows:

Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: CREDIT UNION SUBSIDIARY ORGANIZATION. ~~[(a)]~~ To be issued a credit union subsidiary organization license, an applicant must:

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

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

(3) designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual;

SECTION 3. Same as House version.

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

SECTION 3. Section 156.212, Finance Code, is amended to read as follows:

Sec. 156.212. MAINTENANCE AND LOCATION OF OFFICES. ~~[(a) Each residential mortgage loan company licensed under this chapter shall maintain a physical office in this state.~~

~~[(a-1) If a residential mortgage loan company's main office is outside this state, the requirement of Subsection (a) is satisfied if the company has a branch office located in this state.~~

[(b)] If a residential mortgage loan company maintains an office separate and distinct from the company's main office, whether located in this state or not, that conducts mortgage business with consumers of this state or regarding residential real estate in this state, the company shall apply for, pay a fee of \$50 for, and obtain an additional license to be known as a branch office license for each additional office to be maintained by the company.

No equivalent provision.

SENATE VERSION (IE)

SECTION 4. Same as House version.

SECTION 5. 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

CONFERENCE

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

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.

No equivalent provision.

SECTION 6. Section 156.502, Finance Code, is amended to read as follows:

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

(a-1) All or any portion of the amount of a penalty that is collected by the commissioner under Sections 156.302, 156.303, 157.023, 157.024, 157.031, 158.105, and 180.202, as

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

determined by the commissioner, may be deposited to the credit of the recovery fund at the end of each fiscal year.

(b) If the balance remaining in the recovery fund at the end of a calendar year is more than \$3.5 million, the amount of money in excess of that amount shall be remitted by the commissioner to the comptroller for deposit in the mortgage grant fund established under Subchapter G [available to the commissioner to offset the expenses of participating in and sharing information with the Nationwide Mortgage Licensing System and Registry in accordance with Chapter 180].

No equivalent provision.

SECTION 7. Chapter 156, Finance Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. MORTGAGE GRANT FUND

Sec. 156.551. MORTGAGE GRANT FUND. (a) The commissioner shall establish, administer, and maintain a mortgage grant fund as provided by this subchapter. The amounts received by the commissioner for deposit in the fund shall be held by the commissioner in trust for carrying out the purposes of the fund.

(b) Subject to Subsection (c), all or any portion of the amount of a penalty that is collected by the commissioner under Sections 156.302, 156.303, 157.023, 157.024, 157.031, 158.105, and 180.202, as determined by the commissioner, may be deposited to the credit of the mortgage grant fund at the end of each fiscal year. [FA1(1)]

(c) The balance of the mortgage grant fund may not at any time exceed \$300,000. [FA1(2)]

Sec. 156.552. FUNDING. The mortgage grant fund consists of:

(1) penalties collected by the commissioner and deposited to

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

the credit of the fund in accordance with Section 156.551(b);
and

(2) excess amounts transferred from the recovery fund under
Section 156.502(b).

Sec. 156.553. MANAGEMENT OF FUND. (a) The
commissioner, as manager of the mortgage grant fund, shall:

(1) subject to Subsection (b), invest and reinvest the assets of
the fund;

(2) make disbursements from the fund in accordance with
Section 156.554;

(3) advise the finance commission regarding the fund;

(4) maintain books and records for the fund as required by the
finance commission; and

(5) appear at hearings or judicial proceedings related to the
fund.

(b) Amounts in the mortgage grant 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.

Sec. 156.554. DISBURSEMENT FROM FUND. (a) The
commissioner shall approve each disbursement from the
mortgage grant fund, which must be for a purpose authorized
by Subsection (b).

(b) The commissioner:

(1) may provide grants in an aggregate amount of not more
than \$100,000 each year to an auxiliary mortgage loan activity
company or another nonprofit organization for the purposes
of:

(A) providing to consumers financial education relating to
mortgage loans; and

(B) providing to other nonprofit organizations training in
order for those organizations to provide to consumers

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

financial education relating to mortgage loans; [FA1(3)]
(2) shall make disbursements from the fund to pay claims made under Section 156.555 that meet the requirements for payment under that section; and
(3) may make disbursements from the fund to provide support for statewide financial education, activities, and programs specifically related to mortgage loans for consumers, including activities and programs described by Section 393.628(c). [FA1(4)]
Sec. 156.555. PAYMENT OF CLAIMS FOR FRAUDULENT UNLICENSED ACTIVITY. (a) A residential mortgage loan applicant may make a claim on and receive payment from the mortgage grant fund for the recovery of the applicant's actual, out-of-pocket damages incurred because of fraud committed by an individual who acted as a residential mortgage loan originator but who did not hold the required license issued under Chapter 157 at the time the individual committed the fraudulent act.
(b) The eligibility and procedural requirements for a claim made under Section 156.504 and the statute of limitations under Section 156.503 apply to a residential mortgage loan applicant who makes a claim under this section.
(c) Payments made from the mortgage grant fund to a residential mortgage loan applicant under this section are subject to the limits provided by Section 156.505.
Sec. 156.556. RULES. The finance commission shall adopt rules to administer this subchapter, including rules governing implementation of Section 156.554 that:
(1) ensure a grant awarded under that section is used for a public purpose described by that section; and
(2) provide a means of recovering money awarded that is not used in compliance with that section.

House Bill 3617
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION 8. Section 157.013(b), Finance Code, is amended to read as follows:

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

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

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

No equivalent provision.

SECTION 9. Sections 156.501(d) and (f), Finance Code, are repealed.

No equivalent provision.

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

SECTION 11. This Act takes effect September 1, 2021.