

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

4 (11) "Registered financial services company" means a
5 person registered under Section 156.2012 [~~156.214~~].

6 SECTION 4. Section 156.003, Finance Code, is amended to
7 read as follows:

8 Sec. 156.003. SECONDARY MARKET TRANSACTIONS. This chapter
9 does not prohibit a residential mortgage loan originator sponsored
10 by and conducting business for a licensed or registered residential
11 mortgage loan company under this chapter from receiving
12 compensation from a party other than the mortgage applicant for the
13 sale, transfer, assignment, or release of rights on the closing of a
14 mortgage transaction.

15 SECTION 5. Subsection (a), Section 156.004, Finance Code,
16 is amended to read as follows:

17 (a) At the time an applicant submits an application to a
18 residential mortgage loan originator sponsored by and conducting
19 business for a licensed or registered residential mortgage loan
20 company under this chapter, the residential mortgage loan
21 originator shall provide to the applicant a disclosure that
22 specifies:

23 (1) the nature of the relationship between the
24 applicant and the residential mortgage loan originator;

25 (2) the duties the residential mortgage loan
26 originator has to the applicant; and

27 (3) how the residential mortgage loan originator will

1 be compensated.

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

4 Sec. 156.005. AFFILIATED BUSINESS ARRANGEMENTS. Unless
5 prohibited by federal or state law, this chapter may not be
6 construed to prevent affiliated or controlled business
7 arrangements or loan origination services by or between residential
8 mortgage loan originators, sponsored by and conducting business for
9 a licensed or registered residential mortgage loan company under
10 this chapter, and other professionals if the residential mortgage
11 loan originator complies with all applicable federal and state laws
12 permitting those arrangements or services.

13 SECTION 7. The heading to Section 156.101, Finance Code, is
14 amended to read as follows:

15 Sec. 156.101. ADMINISTRATION AND ENFORCEMENT OF CHAPTER;
16 PARTICIPATION IN NATIONWIDE REGISTRY.

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

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

23 SECTION 9. Subsection (a), Section 156.102, Finance Code,
24 is amended to read as follows:

25 (a) The finance commission may adopt and enforce rules
26 necessary for the intent of or to ensure compliance with this
27 chapter [~~, except as provided by Section 15.4024 with respect to~~

1 ~~employees of credit union subsidiary organizations subject to~~
2 ~~regulation under Section 156.2015].~~

3 SECTION 10. Subsections (f) and (h), Section 156.104,
4 Finance Code, are amended to read as follows:

5 (f) The commissioner may remove a member of the advisory
6 committee if:

7 (1) the member does not maintain [~~have at the time of~~
8 ~~appointment~~] the qualifications required by Subsection (b); or

9 (2) the commissioner determines that the member cannot
10 discharge the member's duties for a substantial part of the term for
11 which the member is appointed.

12 (h) In addition to other powers and duties delegated to the
13 advisory committee by the commissioner, the advisory committee
14 shall advise the commissioner with respect to:

15 (1) the proposal and adoption of rules relating to the
16 mortgage industry[+

17 [~~(A) the licensing of residential mortgage loan~~
18 ~~originators or residential mortgage loan companies,~~

19 [~~(B) the education and experience requirements~~
20 ~~for licensing residential mortgage loan originators,~~ and

21 [~~(C) the conduct and ethics of residential~~
22 ~~mortgage loan originators]~~;

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

25 (3) the interpretation, implementation, and
26 enforcement of this chapter and Chapter 157.

27 SECTION 11. Section 156.105, Finance Code, is amended to

1 read as follows:

2 Sec. 156.105. STANDARD FORMS. (a) The finance
3 commission~~[7]~~ by rule~~[7]~~ shall adopt one or more standard forms for
4 use by a residential mortgage loan originator sponsored by and
5 conducting business for a licensed or registered residential
6 mortgage loan company under this chapter in representing that an
7 applicant for a residential mortgage loan is preapproved or has
8 prequalified for the loan.

9 (b) The finance commission shall adopt rules requiring a
10 residential mortgage loan originator licensed under Chapter 157
11 ~~[this chapter]~~ to use the forms adopted by the finance commission
12 under Subsection (a).

13 SECTION 12. The heading to Subchapter C, Chapter 156,
14 Finance Code, is amended to read as follows:

15 SUBCHAPTER C. RESIDENTIAL MORTGAGE LOAN COMPANY ~~[AND RESIDENTIAL~~
16 ~~MORTGAGE LOAN ORIGINATOR]~~ LICENSES AND REGISTRATION

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

19 (a) A person may not act in the capacity of, engage in the
20 business of, or advertise or hold that person out as engaging in or
21 conducting the business of a residential mortgage loan company in
22 this state unless the person holds an active residential mortgage
23 loan company license, is registered under Section 156.2012
24 ~~[156.214]~~, or is exempt under Section 156.202.

25 (c) Each residential mortgage loan company and the
26 company's qualifying individual licensed under Chapter 157 ~~[this~~
27 ~~chapter]~~ is responsible to the commissioner and members of the

1 public for any act or conduct performed by the residential mortgage
2 loan originator sponsored by or acting for the residential mortgage
3 loan company in connection with:

- 4 (1) the origination of a residential mortgage loan; or
- 5 (2) a transaction that is related to the origination
6 of a residential mortgage loan in which the qualifying individual
7 knew or should have known of the transaction.

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

10 (a) In this section, "depository institution," "dwelling,"
11 and "federal banking agency[~~7~~]" [~~and "immediate family member"~~]
12 have the meanings assigned by Section 180.002.

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

16 (1) [~~a registered mortgage loan originator when acting~~
17 ~~for:~~

18 [~~(A) a depository institution,~~

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

21 [~~(i) owned and controlled by the depository~~
22 ~~institution, and~~

23 [~~(ii) regulated by a federal banking~~
24 ~~agency, or~~

25 [~~(C) an institution regulated by the Farm Credit~~
26 ~~Administration,~~

27 [~~(2) an individual who offers or negotiates the terms~~

1 ~~of a residential mortgage loan with or on behalf of an immediate~~
2 ~~family member of the individual,~~

3 ~~[(3) a licensed attorney who negotiates the terms of a~~
4 ~~residential mortgage loan on behalf of a client as an ancillary~~
5 ~~matter to the attorney's representation of the client, unless the~~
6 ~~attorney;~~

7 ~~[(A) takes a residential mortgage loan~~
8 ~~application; and~~

9 ~~[(B) offers or negotiates the terms of a~~
10 ~~residential mortgage loan;~~

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

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

18 (2) ~~[(6)]~~ a mortgage banker registered under Chapter
19 157;

20 (3) ~~[(7)]~~ any owner of residential real estate who in
21 any 12-consecutive-month period makes no more than five residential
22 mortgage loans to purchasers of the property for all or part of the
23 purchase price of the residential real estate against which the
24 mortgage is secured; and

25 (4) ~~[(8)]~~ an entity that is:

26 (A) a depository institution;

27 (B) a subsidiary of a depository institution that

S.B. No. 1004

1 is:

2 (i) owned and controlled by the depository
3 institution; and

4 (ii) regulated by a federal banking agency;
5 or

6 (C) an institution regulated by the Farm Credit
7 Administration[~~and~~

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

10 SECTION 15. The heading to Section 156.203, Finance Code,
11 is amended to read as follows:

12 Sec. 156.203. APPLICATION [~~FOR A LICENSE~~]; FEES.

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

15 (a-1) An application for a residential mortgage loan
16 company license [~~and a residential mortgage loan originator~~
17 ~~license~~] must be:

- 18 (1) in writing;
- 19 (2) under oath; and
- 20 (3) on the form prescribed by the commissioner.

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

- 23 (1) in writing;
- 24 (2) under oath; and
- 25 (3) on the form prescribed by the commissioner.

26 SECTION 17. The heading to Section 156.2041, Finance Code,
27 is amended to read as follows:

1 Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
2 [~~LICENSES~~]: MORTGAGE COMPANY [~~AND RESIDENTIAL MORTGAGE LOAN~~
3 ~~ORIGINATORS~~].

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

6 (a) To be issued a mortgage company license, an applicant
7 must:

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

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

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

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

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

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

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

27 (8) provide financial statements and any other

1 information required by the commissioner.

2 SECTION 19. The heading to Section 156.2042, Finance Code,
3 is amended to read as follows:

4 Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
5 [~~LICENSES~~]: CREDIT UNION SUBSIDIARY ORGANIZATION [~~AND RESIDENTIAL~~
6 ~~MORTGAGE LOAN ORIGINATORS~~].

7 SECTION 20. Subsection (a), Section 156.2042, Finance Code,
8 is amended to read as follows:

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

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

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

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

19 (4) submit a completed branch application through the
20 Nationwide Mortgage Licensing System and Registry for each branch
21 office that engages in residential mortgage loan activity on
22 residential real estate located in this state; [~~and~~]

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

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

27 SECTION 21. The heading to Section 156.2043, Finance Code,

S.B. No. 1004

1 is amended to read as follows:

2 Sec. 156.2043. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
3 [~~LICENSES~~]: AUXILIARY MORTGAGE LOAN ACTIVITY COMPANY [~~AND~~
4 ~~RESIDENTIAL MORTGAGE LOAN ORIGINATORS~~].

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

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

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

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

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

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

20 SECTION 23. The heading to Section 156.2044, Finance Code,
21 is amended to read as follows:

22 Sec. 156.2044. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE
23 [~~LICENSES~~]: INDEPENDENT CONTRACTOR LOAN PROCESSOR OR UNDERWRITER
24 COMPANY [~~AND INDIVIDUAL LOAN PROCESSORS OR UNDERWRITERS~~].

25 SECTION 24. Subsections (a) and (b), Section 156.2044,
26 Finance Code, are amended to read as follows:

27 (a) To be issued an independent contractor loan processor or

1 underwriter company license under this chapter, an applicant must:

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

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

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

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

13 (b) An independent contractor loan processor or underwriter
14 company or a sponsored residential mortgage loan originator is not
15 authorized to originate residential mortgage loans with a license
16 issued under Subsection (a).

17 SECTION 25. Section 156.2046, Finance Code, is amended to
18 read as follows:

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

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

24 (2) the person received probation or community
25 supervision, including deferred adjudication or community service;
26 or

27 (3) the court deferred final disposition of the

1 person's case.

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

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

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

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

15 (2) the commissioner releases the information:

16 (A) under order from a court; or

17 (B) [~~with the permission of the applicant,~~

18 [~~(C) to a person through whom the applicant is~~
19 ~~conducting or will conduct business, or~~

20 [~~(D)~~] to a governmental agency.

21 SECTION 27. The heading to Section 156.207, Finance Code,
22 is amended to read as follows:

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

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

26 (a-1) A residential mortgage loan company license issued
27 under this chapter is valid through December 31 of the year of

1 issuance and may be renewed on or before its expiration date if the
2 residential mortgage loan company:

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

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

10 (3) continues to meet the minimum requirements for
11 license issuance.

12 (c) An application for renewal shall be in the [The
13 ~~commissioner may require residential mortgage loan originators to~~
14 ~~submit requests for renewal on a~~] form prescribed by the
15 commissioner.

16 SECTION 29. Subsection (g), Section 156.209, Finance Code,
17 is amended to read as follows:

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

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

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

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

21 SECTION 31. Subsection (a), Section 156.213, Finance Code,
22 is amended to read as follows:

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

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

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

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

10 SECTION 32. Section 156.214, Finance Code, is redesignated
11 as Section 156.2012, Finance Code, and amended to read as follows:

12 Sec. 156.2012 [~~156.214~~]. REGISTERED FINANCIAL SERVICES
13 COMPANY. (a) A [~~registered~~] financial services company may
14 perform the services of a [~~another~~] residential mortgage loan
15 company [~~as~~] if the company is registered [~~were licensed as a~~
16 ~~residential mortgage loan company~~] under this chapter [~~, through~~
17 ~~individuals who are the exclusive agents of the registered~~
18 ~~financial services company~~].

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

21 (1) be a depository institution exempt from this
22 chapter under Section 156.202(a-1)(4)(A) [~~156.202(a-1)(8)(A)~~] and
23 chartered and regulated by [~~the Office of Thrift Supervision or~~]
24 the Office of the Comptroller of the Currency, or be a subsidiary of
25 the institution;

26 (2) [~~provide the commissioner with satisfactory~~
27 ~~evidence of an undertaking of accountability in a form acceptable~~

1 ~~to the commissioner, supported by a surety bond equal to \$1 million~~
2 ~~to cover the person's responsibility for residential mortgage loan~~
3 ~~company activities of each exclusive agent,~~

4 ~~(3)~~ provide a business plan satisfactory to the
5 commissioner that sets forth the person's plan to:

6 (A) provide education to its sponsored
7 residential mortgage loan originators;

8 (B) ~~[exclusive agents,]~~ handle consumer
9 complaints relating to its sponsored residential mortgage loan
10 originators; and

11 (C) ~~[exclusive agents, and]~~ supervise the
12 residential mortgage loan origination activities of its sponsored
13 residential mortgage loan originators ~~[exclusive agents];~~

14 (3) ~~(4)~~ pay a [an annual] registration fee in an
15 amount not to exceed \$500 ~~[determined as follows:~~

16 ~~[(A) if the registered financial services~~
17 ~~company has 2,000 or fewer exclusive agents acting in this state, an~~
18 ~~amount equal to the lesser of:~~

19 ~~[(i) one-half of the license fee for a~~
20 ~~residential mortgage loan originator under Section 156.203(c)(1),~~
21 ~~multiplied by the number of exclusive agents under contract to act~~
22 ~~for the person in this state; or~~

23 ~~[(ii) \$200,000;~~

24 ~~[(B) if the registered financial services~~
25 ~~company has at least 2,001 but not more than 2,500 exclusive agents~~
26 ~~acting in this state, \$225,000;~~

27 ~~[(C) if the registered financial services~~

1 ~~company has at least 2,501 but not more than 3,000 exclusive agents~~
2 ~~acting in this state, \$250,000,~~

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

6 [~~(E) if the registered financial services~~
7 ~~company has at least 5,001 exclusive agents acting in this state,~~
8 ~~\$350,000];~~

9 (4) ~~and~~

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

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

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

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

22 (c) If the commissioner determines that a person has met the
23 requirements of Subsection (b) [~~and Section 156.2045(a)~~], the
24 commissioner shall issue a registration to the person. The
25 registration is valid for one year, expires on December 31 of each
26 year, and must be renewed annually by meeting the requirements
27 under Subsection (b) and paying a renewal fee in an amount not to

1 exceed \$500. A person must renew an expired registration in the
2 manner determined by the commissioner.

3 (d) A registered financial services company is subject to
4 Subchapters D and E as if the company were licensed as a residential
5 mortgage loan company.

6 SECTION 33. Subsections (a), (b), (c), and (h), Section
7 156.301, Finance Code, are amended to read as follows:

8 (a) The commissioner may conduct inspections of a person
9 licensed under this chapter or a residential mortgage loan
10 originator who is licensed under Chapter 157 and sponsored by and
11 conducting business for a licensed or registered residential
12 mortgage loan company under this chapter as the commissioner
13 determines necessary to determine whether the person or the
14 residential mortgage loan originator is complying with this chapter
15 and applicable rules. The inspections may include inspection of
16 the books, records, documents, operations, and facilities of the
17 person or the residential mortgage loan originator and access to
18 any documents required under rules adopted under this chapter. The
19 commissioner may share evidence of criminal activity gathered
20 during an inspection or investigation with any state or federal law
21 enforcement agency.

22 (b) On the signed written complaint of a person, the
23 commissioner shall investigate the actions and records of a person
24 licensed under this chapter or a residential mortgage loan
25 originator who is licensed under Chapter 157 and sponsored by and
26 conducting business for a licensed or registered residential
27 mortgage loan company under this chapter if the complaint, or the

1 complaint and documentary or other evidence presented in connection
 2 with the complaint, provides reasonable cause. The commissioner,
 3 before commencing an investigation, shall notify the [a]
 4 residential mortgage loan company or the residential mortgage loan
 5 originator in writing of the complaint and that the commissioner
 6 intends to investigate the matter.

7 (c) For reasonable cause, the commissioner at any time may
 8 investigate a person licensed under this chapter or a residential
 9 mortgage loan originator who is licensed under Chapter 157 and
 10 sponsored by and conducting business for a licensed or registered
 11 residential mortgage loan company under this chapter to determine
 12 whether the person or the residential mortgage loan originator is
 13 complying with this chapter and applicable rules.

14 (h) The commissioner may require reimbursement of expenses
 15 ~~[in an amount not to exceed \$325]~~ for each examiner ~~[a day]~~ for
 16 on-site examination or investigation of a license holder
 17 ~~[residential mortgage loan company]~~ if records are located out of
 18 state or if the review is considered necessary beyond the routine
 19 examination process. The finance commission by rule shall set the
 20 maximum amount for the reimbursement of expenses authorized under
 21 this subsection.

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

25 (a) The commissioner may order disciplinary action against
 26 a licensed or registered residential mortgage loan company ~~[or a~~
 27 ~~licensed residential mortgage loan originator]~~ when the

1 commissioner, after notice and opportunity for hearing, has
2 determined that the company [~~person~~]:

3 (1) obtained a license or registration, including a
4 renewal of a license or registration, under this chapter through a
5 false or fraudulent representation or made a material
6 misrepresentation in an application for a license or registration
7 or for the renewal of a license or registration under this chapter;

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

11 (A) is misleading;

12 (B) is likely to deceive the public;

13 (C) in any manner tends to create a misleading
14 impression;

15 (D) fails to identify as a residential mortgage
16 loan company [~~or residential mortgage loan originator~~] the person
17 causing the advertisement to be published; or

18 (E) violates federal or state law;

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

22 (4) entered a plea of guilty or nolo contendere to, or
23 is convicted of, a criminal offense that is a felony or that
24 involves fraud or moral turpitude in a court of this or another
25 state or in a federal court;

26 (5) failed to use a fee collected in advance of closing
27 of a residential mortgage loan for a purpose for which the fee was

S.B. No. 1004

1 paid;

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

8 (7) failed within a reasonable time to honor a credit
9 card charge back or a check issued to the commissioner after the
10 commissioner has mailed a request for payment, including payment of
11 [~~of the check and~~] any applicable fees, [~~by certified mail~~] to the
12 person's last known business address as reflected by the
13 commissioner's records;

14 (8) paid compensation to a person who is not licensed,
15 registered, or exempt under this chapter or Chapter 157 for acts for
16 which a license or registration under this chapter or Chapter 157 is
17 required;

18 (9) induced or attempted to induce a party to a
19 contract to breach the contract so the person may make a residential
20 mortgage loan;

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

25 (11) established an association, by employment or
26 otherwise, with a person not licensed, registered, or exempt under
27 this chapter or Chapter 157 who was expected or required to act as a

1 residential mortgage loan company or residential mortgage loan
2 originator;

3 (12) aided, abetted, or conspired with a person to
4 circumvent the requirements of this chapter or Subchapter D,
5 Chapter 157;

6 (13) acted in the dual capacity of a residential
7 mortgage loan company [~~or residential mortgage loan originator~~] and
8 real estate broker, salesperson, or attorney in a transaction
9 without the knowledge and written consent of the mortgage applicant
10 or in violation of applicable requirements under federal law;

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

14 (15) failed or refused on demand to:

15 (A) produce a document, book, or record
16 concerning a residential mortgage loan transaction conducted by a
17 [~~the~~] residential mortgage loan originator for inspection by the
18 commissioner or the commissioner's authorized personnel or
19 representative;

20 (B) give the commissioner or the commissioner's
21 authorized personnel or representative free access to the books or
22 records relating to the person's business kept by an officer,
23 agent, or employee of the person or any business entity through
24 which the person conducts residential mortgage loan origination
25 activities, including a subsidiary or holding company affiliate; or

26 (C) provide information requested by the
27 commissioner as a result of a formal or informal complaint made to

008
M24

1 the commissioner;

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

7 (17) disregarded or violated this chapter, a rule
8 adopted by the finance commission under this chapter, or an order
9 issued by the commissioner under this chapter; or

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

12 (a-1) The commissioner may also order disciplinary action
13 after notice and opportunity for hearing against a licensed or
14 registered residential mortgage loan company [~~or a licensed~~
15 ~~residential mortgage loan originator~~] if the commissioner becomes
16 aware during the term of the license of any fact that would have
17 been grounds for denial of an original license if the fact had been
18 known by the commissioner on the date the license was issued.

19 (g) If a person fails to pay an administrative penalty that
20 has become final or fails to comply with an order of the
21 commissioner that has become final, in addition to any other remedy
22 provided under law the commissioner, on not less than 10 days'
23 notice to the person, may without a prior hearing suspend the
24 person's residential mortgage loan company license or registration
25 [~~or residential mortgage loan originator license~~]. The suspension
26 shall continue until the person has complied with the order or paid
27 the administrative penalty. During the period of suspension, the

1 person may not originate a residential mortgage loan and all
2 compensation received by the person during the period of suspension
3 is subject to forfeiture as provided by Section 156.406(b).

4 (i) An order revoking the license or registration of a
5 residential mortgage loan company [~~or the license of a residential~~
6 ~~mortgage loan originator~~] may provide that the person is
7 prohibited, without obtaining prior written consent of the
8 commissioner, from:

9 (1) engaging in the business of originating or making
10 residential mortgage loans; or

11 (2) [~~being an employee, officer, director, manager,~~
12 ~~shareholder, member, agent, contractor, or processor of a~~
13 ~~residential mortgage loan company or residential mortgage loan~~
14 ~~originator, or~~

15 [(3)] otherwise affiliating with a person for the
16 purpose of engaging in the business of originating or making
17 residential mortgage loans.

18 (k) The commissioner may, at the commissioner's discretion,
19 rescind or vacate any previously issued order.

20 SECTION 35. Subsection (a), Section 156.304, Finance Code,
21 is amended to read as follows:

22 (a) Before the completion of all services to be performed, a
23 residential mortgage loan originator sponsored by and conducting
24 business for a licensed or registered residential mortgage loan
25 company under this chapter may charge and receive, unless
26 prohibited by law, the following fees for services in assisting a
27 mortgage applicant to obtain a residential mortgage loan:

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

12 SECTION 36. Section 156.305, Finance Code, is amended to
 13 read as follows:

14 Sec. 156.305. RESTITUTION. The commissioner may order a
 15 person to make restitution for any amount received by that person in
 16 violation of this chapter. A residential mortgage loan company may
 17 be required to make restitution for any amount received by a
 18 sponsored residential mortgage loan originator in violation of
 19 Chapter 157 [~~this chapter~~].

20 SECTION 37. Subsection (d), Section 156.401, Finance Code,
 21 is amended to read as follows:

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

27 SECTION 38. Subsection (a), Section 156.406, Finance Code,

1 is amended to read as follows:

2 (a) A person, unless otherwise exempt, commits an offense if
3 the person conducts regulated activities under this chapter without
4 first obtaining a license or registration as required by Section
5 156.201, 156.2012, or 157.012, as applicable. [~~A person who is not~~
6 ~~exempt under this chapter and who acts as a residential mortgage~~
7 ~~loan originator without first obtaining a license required under~~
8 ~~this chapter commits an offense.] An offense under this subsection
9 is a Class B misdemeanor. A second or subsequent conviction for an
10 offense under this subsection shall be punished as a Class A
11 misdemeanor.~~

12 SECTION 39. The heading to Subchapter F, Chapter 156,
13 Finance Code, is amended to read as follows:

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

15 SECTION 40. Subsection (b), Section 156.501, Finance Code,
16 is amended to read as follows:

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

24 [~~(1) a residential mortgage loan originator licensed~~
25 ~~under this chapter that constitutes a violation of Section~~
26 ~~156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12), (13), or~~
27 ~~(16) or 156.304, or~~

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

5 SECTION 41. Subsection (a), Section 156.502, Finance Code,
6 is amended to read as follows:

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

13 SECTION 42. Subsection (a), Section 156.503, Finance Code,
14 is amended to read as follows:

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

20 SECTION 43. Subsection (b), Section 156.504, Finance Code,
21 is amended to read as follows:

22 (b) The residential mortgage loan applicant is required to
23 show:

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

26 (2) that the applicant:

27 (A) is not a spouse of the licensed residential

1 mortgage loan originator;

2 (B) is not a child, parent, grandchild,
3 grandparent, or sibling, including relationships by adoption, of
4 the licensed residential mortgage loan originator;

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

9 (D) is not a person who has aided, abetted, or
10 participated other than as a victim with the licensed residential
11 mortgage loan originator in any activity that is illegal under
12 ~~[Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12),~~
13 ~~(13), or (16), Section 156.304, or]~~ Section 157.024(a)(2), (3),
14 (5), (7), (8), (9), (10), (13), ~~[ex]~~ (16), (17), or (18) or
15 156.304(b), or is not the personal representative of a licensed
16 residential mortgage loan originator; and

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

21 SECTION 44. Subsection (b), Section 156.505, Finance Code,
22 is amended to read as follows:

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

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

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

6 SECTION 45. Subsections (a), (c), and (d), Section 156.506,
7 Finance Code, are amended to read as follows:

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

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

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

1 brought under Chapter 157 [~~this chapter~~].

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

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

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

9 SUBCHAPTER A. GENERAL PROVISIONS

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

12 (3-a) "Inspection" includes examination.

13 (5-a) "Residential mortgage loan company" has the
14 meaning assigned by Section 156.002.

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

17 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

18 Sec. 157.0024. MORTGAGE INDUSTRY ADVISORY COMMITTEE. The
19 mortgage industry advisory committee shall advise and assist the
20 commissioner with respect to this chapter as provided by Section
21 156.104.

22 SECTION 50. Sections 157.003, 157.004, 157.005, 157.006,
23 157.0061, 157.0062, 157.009, and 157.010, Finance Code, are
24 designated as Subchapter C, Chapter 157, Finance Code, and a
25 heading is added to that subchapter to read as follows:

26 SUBCHAPTER C. REGISTRATION OF MORTGAGE BANKERS

27 SECTION 51. Subsection (b), Section 157.003, Finance Code,

1 is amended to read as follows:

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

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

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

6 (3) have a valid federal employer identification
7 number;

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

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

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

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

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

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

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

27 (3) a residential mortgage loan company licensed

S.B. No. 1004

1 ~~[person licensed as a mortgage broker]~~ under Chapter 156;

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

3 or

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

9 SECTION 53. Section 157.005, Finance Code, is amended to
10 read as follows:

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

14 SECTION 54. Sections 157.007 and 157.008, Finance Code, are
15 transferred to Subchapter B, Chapter 157, Finance Code, as added by
16 this Act, and redesignated as Sections 157.0021 and 157.0022,
17 Finance Code, to read as follows:

18 Sec. 157.0021 ~~[157.007]~~. DISCLOSURE STATEMENT. (a) A
19 mortgage banker that is a residential mortgage loan originator
20 shall include a notice to a residential mortgage loan applicant
21 with an application for a residential mortgage loan. The finance
22 commission by rule shall adopt a standard disclosure form to be used
23 by the mortgage banker. The form must:

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

26 (2) contain information on how to file a complaint or
27 recovery fund claim; and

S.B. No. 1004

1 (3) prescribe a method for proof of delivery to the
2 consumer.

3 (b) A mortgage banker that indicates in its registration
4 that it acts as a residential mortgage loan servicer shall provide
5 to the borrower of each residential mortgage loan it services the
6 following notice not later than the 30th day after the date the
7 mortgage banker commences servicing the loan:

8 "COMPLAINTS REGARDING THE SERVICING OF YOUR MORTGAGE SHOULD
9 BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING,
10 _____ (street address of the Department
11 of Savings and Mortgage Lending). A TOLL-FREE CONSUMER HOTLINE IS
12 AVAILABLE AT _____ (telephone number of the Department of
13 Savings and Mortgage Lending's toll-free consumer hotline)."

14 Sec. 157.0022 [~~157.008~~]. COMPLAINTS. (a) If the
15 Department of Savings and Mortgage Lending receives a signed
16 written complaint from a person concerning a mortgage banker, the
17 commissioner shall notify the representative designated by the
18 mortgage banker under Section 157.003(b) in writing of the
19 complaint and provide a copy of the complaint to the
20 representative.

21 (b) The commissioner may request documentary and other
22 evidence considered by the commissioner as necessary to effectively
23 evaluate the complaint, including correspondence, loan documents,
24 and disclosures. A mortgage banker shall promptly provide any
25 evidence requested by the commissioner.

26 (c) The commissioner may require the mortgage banker to
27 resolve the complaint or to provide the commissioner with a

S.B. No. 1004

1 response to the complaint. The commissioner may direct the
2 mortgage banker in writing to take specific action to resolve the
3 complaint.

4 SECTION 55. Section 157.009, Finance Code, is amended by
5 adding Subsection (d-1) and amending Subsection (e) to read as
6 follows:

7 (d-1) The commissioner, after review of the circumstances,
8 may revoke the registration of a mortgage banker if the mortgage
9 banker has had a license, registration, or other certification
10 revoked by a state or federal regulatory authority.

11 (e) If the commissioner proposes to revoke a registration
12 under Subsection (c), ~~(d)~~, or (d-1), the mortgage banker is
13 entitled to a hearing before the commissioner or a hearings
14 officer, who shall propose a decision to the commissioner. The
15 commissioner or hearings officer shall prescribe the time and place
16 of the hearing. The hearing is governed by Chapter 2001, Government
17 Code.

18 SECTION 56. Section 157.011, Finance Code, is transferred
19 to Subchapter B, Chapter 157, Finance Code, as added by this Act,
20 and redesignated as Section 157.0023, Finance Code, to read as
21 follows:

22 Sec. 157.0023 [~~157.011~~]. RULEMAKING AUTHORITY. (a) The
23 Finance Commission of Texas may adopt rules necessary to implement
24 or fulfill the purpose of this chapter.

25 (b) The Finance Commission of Texas may by rule adopt
26 standard forms for, and require the use of the forms by, a mortgage
27 banker who represents that an applicant for a loan is preapproved or

1 has prequalified for the loan.

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

6 SECTION 57. Sections 157.012, 157.013, 157.014, 157.015,
7 157.016, 157.017, 157.019, 157.020, and 157.0201, Finance Code, are
8 designated as Subchapter D, Chapter 157, Finance Code, and a
9 heading is added to that subchapter to read as follows:

10 SUBCHAPTER D. LICENSING OF RESIDENTIAL MORTGAGE LOAN ORIGINATORS;
11 DISCLOSURES AND REQUIREMENTS

12 SECTION 58. The heading to Section 157.012, Finance Code,
13 is amended to read as follows:

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

16 SECTION 59. Section 157.012, Finance Code, is amended by
17 amending Subsections (a) and (c) and adding Subsection (e) to read
18 as follows:

19 (a) An individual [~~An employee of a mortgage banker~~] may not
20 act or attempt to act in the capacity of a residential mortgage loan
21 originator unless the individual is exempt under Section 157.0121
22 or 180.003(b) or [employee]:

23 (1) is licensed under this chapter, sponsored by an
24 appropriate entity [~~a registered mortgage banker~~], and enrolled
25 with the Nationwide Mortgage Licensing System and Registry as
26 required by Section 180.052; and

27 (2) complies with other applicable requirements of

S.B. No. 1004

1 Chapter 180 and rules adopted by the finance commission under that
2 chapter.

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

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

9 (2) not be in violation of this chapter, Chapter 180,
10 or any rules adopted under this chapter or Chapter 180;

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

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

16 (e) In this section, "appropriate entity" means an entity:

17 (1) that is licensed or registered under this chapter
18 or Chapter 156; and

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

21 SECTION 60. Subchapter D, Chapter 157, Finance Code, as
22 added by this Act, is amended by adding Section 157.0121 to read as
23 follows:

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

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

2 **(1) a registered mortgage loan originator when acting**

3 **for:**

4 **(A) a depository institution;**

5 **(B) a subsidiary of a depository institution that**

6 **is:**

7 **(i) owned and controlled by the depository**

8 **institution; and**

9 **(ii) regulated by a federal banking agency;**

10 **or**

11 **(C) an institution regulated by the Farm Credit**

12 **Administration;**

13 **(2) an individual who offers or negotiates the terms**

14 **of a residential mortgage loan with or on behalf of an immediate**

15 **family member of the individual;**

16 **(3) a licensed attorney who negotiates the terms of a**

17 **residential mortgage loan on behalf of a client as an ancillary**

18 **matter to the attorney's representation of the client, unless the**

19 **attorney:**

20 **(A) takes a residential mortgage loan**

21 **application; and**

22 **(B) offers or negotiates the terms of a**

23 **residential mortgage loan;**

24 **(4) an individual who offers or negotiates terms of a**

25 **residential mortgage loan secured by a dwelling that serves as the**

26 **individual's residence;**

27 **(5) any owner of residential real estate who in any**

S.B. No. 1004

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

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

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

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

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

20 (3) an entity that is:

21 (A) a depository institution;

22 (B) a subsidiary of a depository institution that

23 is:

24 (i) owned and controlled by the depository
25 institution; and

26 (ii) regulated by a federal banking agency;

27 or

1 (C) an institution regulated by the Farm Credit
2 Administration.

3 (d) A person is not required to obtain a license under this
4 chapter to originate a loan subject to Chapter 342 or a loan
5 governed by Section 50(a)(6), Article XVI, Texas Constitution, if
6 the person:

7 (1) is enrolled in the Nationwide Mortgage Licensing
8 System and Registry;

9 (2) is licensed under Chapter 342; and

10 (3) makes consumer loans subject to:

11 (A) Subchapter G, Chapter 342; and

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

13 (e) The finance commission may grant an exemption from the
14 residential mortgage loan originator licensing requirements of
15 this chapter to a municipality, county, community development
16 corporation, or public or private grant administrator to the extent
17 the entity is administering the Texas HOME Investment Partnerships
18 program if the commission determines that granting the exemption is
19 not inconsistent with the intentions of the federal Secure and Fair
20 Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No.
21 110-289).

22 SECTION 61. Section 157.013, Finance Code, is amended by
23 amending Subsection (b) and adding Subsection (d) to read as
24 follows:

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

27 (1) an application fee in an amount determined by the

1 commissioner, not to exceed \$500;~~[7]~~ and

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

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

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

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

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

19 Sec. 157.0132. CRIMINAL AND OTHER BACKGROUND CHECKS.

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

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

1 Public Safety.

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

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

7 (2) the commissioner releases the information:

8 (A) under order from a court; or

9 (B) to a governmental agency.

10 (d) Notwithstanding Subsection (c), criminal history record
11 information obtained from the Federal Bureau of Investigation may
12 be released or disclosed only to a governmental entity or as
13 authorized by federal statute, federal rule, or federal executive
14 order.

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

18 Sec. 157.0141. CONDITIONAL LICENSE. The commissioner may
19 issue a conditional license. The finance commission by rule shall
20 adopt reasonable terms and conditions for a conditional license.

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

24 (a) A residential mortgage loan originator license issued
25 under this chapter is valid through December 31 of the year of
26 issuance and may be renewed on or before its expiration date if the
27 residential mortgage loan originator:

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

4 (2) continues to meet the minimum requirements for
5 license issuance; and

6 (3) provides the commissioner with satisfactory
7 evidence that the residential mortgage loan originator has
8 attended, during the term of the current license, continuing
9 education courses in accordance with the applicable requirements of
10 Chapter 180 [A residential mortgage loan originator license issued
11 under this chapter is valid for one year and may be renewed on or
12 before its expiration date].

13 (c) An application for renewal [~~of a residential mortgage~~
14 ~~loan originator license]~~ shall be in the form prescribed by the
15 commissioner [meet the requirements of Section 157.013].

16 (d) On receipt of a request for a renewal of a license issued
17 under this subchapter, the commissioner may conduct a criminal
18 background check under Section 157.0132 [An application for renewal
19 of a residential mortgage loan originator license must meet all of
20 the standards and qualifications for license renewal under Chapter
21 180].

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

25 (g) The commissioner may deny the renewal application for a
26 residential mortgage loan originator license if:

27 (1) the person seeking the renewal of the residential

S.B. No. 1004

1 mortgage loan originator license is in violation of this chapter,
2 Chapter 156, or Chapter 180, an applicable rule adopted under this
3 chapter, Chapter 156, or Chapter 180, or any order previously
4 issued to the person by the commissioner;

5 (2) the person seeking renewal of the residential
6 mortgage loan originator license is in default in the payment of any
7 administrative penalty, fee, charge, or other indebtedness owed
8 under this title;

9 (3) the person seeking the renewal of the residential
10 mortgage loan originator license is in default on a student loan
11 administered by the Texas Guaranteed Student Loan Corporation,
12 under Section 57.491, Education Code; or

13 (4) during the current term of the license, the
14 commissioner becomes aware of any fact that would have been grounds
15 for denial of an original license if the fact had been known by the
16 commissioner on the date the license was granted.

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

21 SECTION 65. Subsection (a), Section 157.016, Finance Code,
22 is amended to read as follows:

23 (a) A person whose residential mortgage loan originator
24 license has expired may not engage in activities that require a
25 license until the license has been reinstated or a new license has
26 been issued [~~renewed~~].

27 SECTION 66. Subsection (g), Section 157.017, Finance Code,

1 is amended to read as follows:

2 (g) A person whose application for or request to renew a
3 license has been denied is not eligible to be licensed for a period
4 of two years after the date the denial becomes final, or a shorter
5 period as determined by the commissioner after evaluating the
6 specific circumstances of the denial [~~person's subsequent~~
7 ~~application~~]. The finance commission may adopt rules to provide
8 conditions for which the commissioner may shorten the period of
9 ineligibility [~~time for eligibility for a new license~~].

10 SECTION 67. The heading to Section 157.019, Finance Code,
11 is amended to read as follows:

12 Sec. 157.019. MODIFICATION OF LICENSE; CHANGE OF
13 SPONSORSHIP.

14 SECTION 68. Section 157.019, Finance Code, is amended by
15 amending Subsections (a) and (c) and adding Subsections (d) and (e)
16 to read as follows:

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

21 (c) When the sponsorship of a residential mortgage loan
22 originator is terminated, the residential mortgage loan originator
23 or the former sponsoring entity licensed or registered under this
24 chapter or Chapter 156 shall immediately notify the
25 commissioner. The residential mortgage loan originator's license
26 then becomes inactive. The residential mortgage loan originator
27 license may be activated if, before the license expires, an entity

S.B. No. 1004

1 licensed or registered under this chapter or Chapter 156 files a
2 request, accompanied by a \$25 fee, notifying the commissioner that
3 the entity will sponsor the residential mortgage loan originator
4 and will assume responsibility for the actions of the residential
5 mortgage loan originator [~~A mortgage banker employee who is a~~
6 ~~residential mortgage loan originator shall notify the commissioner~~
7 ~~or authorized designee in writing of a change of sponsorship. The~~
8 ~~notice must be accompanied by a fee of \$25].~~

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

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

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

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

23 (1) is a statement of condition of the residential
24 mortgage loan originator;

25 (2) must include any information required by the
26 commissioner; and

27 (3) must be filed as frequently as required by the

1 commissioner.

2 SECTION 70. Subchapter D, Chapter 157, Finance Code, as
3 added by this Act, is amended by adding Sections 157.02012,
4 157.02013, 157.02014, 157.02015, and 157.02016 to read as follows:

5 Sec. 157.02012. STANDARD FORMS. (a) The finance
6 commission by rule shall adopt one or more standard forms for use by
7 a residential mortgage loan originator, sponsored by and conducting
8 business for a registered mortgage banker under this chapter, in
9 representing that an applicant for a residential mortgage loan is
10 preapproved or has prequalified for the loan.

11 (b) The finance commission shall adopt rules requiring a
12 residential mortgage loan originator licensed under this chapter to
13 use the forms adopted by the finance commission under Subsection
14 (a).

15 Sec. 157.02013. SECONDARY MARKET TRANSACTIONS. This
16 chapter does not prohibit a residential mortgage loan originator
17 sponsored by and conducting business for a registered mortgage
18 banker under this chapter from receiving compensation from a party
19 other than the mortgage applicant for the sale, transfer,
20 assignment, or release of rights on the closing of a mortgage
21 transaction.

22 Sec. 157.02014. AFFILIATED BUSINESS ARRANGEMENTS. Unless
23 prohibited by federal or state law, this chapter may not be
24 construed to prevent affiliated or controlled business
25 arrangements or loan origination services by or between residential
26 mortgage loan originators sponsored by and conducting business for
27 a registered mortgage banker under this chapter and other

1 professionals if the residential mortgage loan originator complies
2 with all applicable federal and state laws permitting those
3 arrangements or services.

4 Sec. 157.02015. RULEMAKING AUTHORITY WITH RESPECT TO
5 RESIDENTIAL MORTGAGE LOAN ORIGINATORS. (a) The finance
6 commission may adopt rules to prohibit false, misleading, or
7 deceptive practices by residential mortgage loan originators but
8 may not adopt any other rules restricting competitive bidding or
9 advertising by residential mortgage loan originators. When
10 adopting rules under this subsection, the finance commission may
11 not restrict:

- 12 (1) the use of any medium for an advertisement;
13 (2) the personal appearance of or voice of a person in
14 an advertisement;
15 (3) the size or duration of an advertisement; or
16 (4) a residential mortgage loan originator's
17 advertisement under a trade name.

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

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

24 Sec. 157.02016. ADMINISTRATION OF SUBCHAPTER. The
25 commissioner shall administer and enforce this subchapter.

26 SECTION 71. Sections 157.021, 157.0211, 157.022, 157.023,
27 157.024, 157.0241, 157.025, 157.026, 157.027, 157.028, 157.029,

1 157.030, and 157.031, Finance Code, are designated as Subchapter E,
2 Chapter 157, Finance Code, and a heading is added to that subchapter
3 to read as follows:

4 SUBCHAPTER E. ENFORCEMENT

5 SECTION 72. Section 157.021, Finance Code, is amended by
6 amending Subsection (a) and adding Subsection (h) to read as
7 follows:

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

22 (h) The commissioner may require reimbursement of expenses
23 for each examiner for an on-site examination or inspection of a
24 licensed residential mortgage loan originator if records are
25 located out of state and are not made available for examination or
26 inspection by the examiner in this state. The finance commission by
27 rule shall set the maximum amount for the reimbursement of expenses

1 authorized under this subsection.

2 SECTION 73. Section 157.0211, Finance Code, is amended to
3 read as follows:

4 Sec. 157.0211. MULTI-STATE EXAMINATION AUTHORITY OF
5 RESIDENTIAL MORTGAGE LOAN SERVICER. To ensure that mortgage
6 bankers that act as residential mortgage loan servicers operate in
7 this state in compliance with this chapter and with other law in
8 accordance with this chapter, the commissioner or the
9 commissioner's designee may participate in multi-state mortgage
10 examinations as scheduled by the Conference of State Bank
11 Supervisors Multi-State Mortgage Committee or by the Consumer
12 Financial Protection Bureau in accordance with the [~~Conference of~~
13 ~~State Bank Supervisors~~] protocol for such examinations.

14 SECTION 74. Subsection (a), Section 157.023, Finance Code,
15 is amended to read as follows:

16 (a) The commissioner, after notice and opportunity for a
17 hearing, may impose an administrative penalty on an individual who
18 is licensed or required to be licensed under this chapter as a
19 residential mortgage loan originator and who violates this chapter,
20 Chapter 156, or a rule or order adopted under this chapter or
21 Chapter 156.

22 SECTION 75. Subsections (a), (h), and (j), Section 157.024,
23 Finance Code, are amended to read as follows:

24 (a) The commissioner may order disciplinary action against
25 a licensed residential mortgage loan originator when the
26 commissioner, after notice and opportunity for a hearing, has
27 determined that the person:

S.B. No. 1004

1 (1) obtained a license, including a renewal of a
2 license, under this chapter through a false or fraudulent
3 representation or made a material misrepresentation in an
4 application for a license or for the renewal of a license under this
5 chapter;

6 (2) published or caused to be published an
7 advertisement related to the business of a residential mortgage
8 loan originator that:

9 (A) was misleading;

10 (B) was likely to deceive the public;

11 (C) in any manner tended to create a misleading
12 impression;

13 (D) failed to identify as a licensed residential
14 mortgage loan originator the person causing the advertisement to be
15 published; or

16 (E) violated federal or state law;

17 (3) while performing an act for which a license under
18 this chapter or Chapter 156 is required, engaged in conduct that
19 constitutes improper, fraudulent, or dishonest dealings;

20 (4) entered a plea of nolo contendere to or was
21 convicted of a criminal offense that is a felony or that involves
22 fraud or moral turpitude in a court of this or another state or in a
23 federal court;

24 (5) failed to use a fee collected in advance of closing
25 a residential mortgage loan for a purpose for which the fee was
26 paid;

27 (6) failed within a reasonable time to honor a credit

12
13

S.B. No. 1004

1 card charge back or a check issued to the commissioner after the
2 commissioner mailed a request for payment, including any applicable
3 fees, by mail to the person's last known home [~~business~~] address as
4 reflected in the commissioner's records;

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

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

12 (9) aided, abetted, or conspired with a person to
13 circumvent the requirements of this chapter or Chapter 156;

14 (10) acted in the dual capacity of a licensed
15 residential mortgage loan originator and real estate broker,
16 salesperson, or attorney in a transaction without the knowledge and
17 written consent of the mortgage applicant or in violation of
18 applicable requirements under federal law;

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

22 (12) failed or refused on demand to:

23 (A) produce a document, book, or record
24 concerning a residential mortgage loan transaction conducted by the
25 licensed residential mortgage loan originator for inspection by the
26 commissioner or the commissioner's authorized personnel or
27 representative;

1 (B) give the commissioner or the commissioner's
2 authorized personnel or representative free access to the books or
3 records relating to the residential mortgage loan originator's
4 business kept by any other person or any business entity through
5 which the residential mortgage loan originator conducts
6 residential mortgage loan origination activities; or

7 (C) provide information requested by the
8 commissioner as a result of a formal or informal complaint made to
9 the commissioner;

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

16 (14) disregarded or violated this chapter, Chapter
17 156, a rule adopted under this chapter or Chapter 156, or an order
18 issued by the commissioner under this chapter or Chapter 156;

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

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

24 (17) established an association, by employment or
25 otherwise, with a person not licensed, registered, or exempt under
26 this chapter or Chapter 156 who was expected or required to act as a
27 residential mortgage loan originator or residential mortgage loan

1 company; or

2 (18) charged or received, directly or indirectly, a
3 fee for assisting a mortgage applicant in obtaining a residential
4 mortgage loan under Chapter 156 before all of the services that the
5 person agreed to perform for the mortgage applicant are completed,
6 and the proceeds of the residential mortgage loan have been
7 disbursed to or on behalf of the mortgage applicant, except as
8 provided by Section 156.304.

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

23 (j) An order revoking the license of a residential mortgage
24 loan originator may provide that the person is prohibited, without
25 previously obtaining written consent of the commissioner, from:

26 (1) engaging in the business of originating or making
27 residential mortgage loans [~~as defined by Section 180.002~~];

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

4 (3) being an employee, officer, director, manager,
5 shareholder, member, agent, contractor, or processor of a mortgage
6 banker, residential mortgage loan company, or residential mortgage
7 loan originator for a residential mortgage loan company.

8 SECTION 76. Subsection (e), Section 157.0241, Finance Code,
9 is amended to read as follows:

10 (e) This section does not limit the authority of the
11 commissioner to take disciplinary action against a residential
12 mortgage loan originator for a violation of this chapter, Chapter
13 156, or the rules adopted by the finance commission under this
14 chapter or Chapter 156. The repayment in full to the recovery fund
15 of all obligations of a residential mortgage loan originator does
16 not nullify or modify the effect of any other disciplinary
17 proceeding brought under this chapter or Chapter 156.

18 SECTION 77. Section 157.025, Finance Code, is amended to
19 read as follows:

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

24 SECTION 78. Section 157.026, Finance Code, is amended by
25 amending Subsection (b) and adding Subsection (e) to read as
26 follows:

27 (b) If the commissioner proposes to suspend or revoke a

S.B. No. 1004

1 license of a residential mortgage loan originator or if the
2 commissioner refuses to issue or renew [~~a license to an applicant~~
3 ~~for~~] a residential mortgage loan originator license [~~or person~~
4 ~~requesting a renewal of a residential mortgage loan originator~~
5 ~~license~~] under this chapter, the applicant or license holder is
6 entitled to a hearing before the commissioner or an administrative
7 law judge who shall make a proposal for decision to the
8 commissioner. The commissioner or administrative law judge shall
9 prescribe the time and place of the hearing. The hearing is
10 governed by Chapter 2001, Government Code.

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

13 SECTION 79. Subsection (a), Section 157.027, Finance Code,
14 is amended to read as follows:

15 (a) A residential mortgage loan applicant injured by a
16 violation of this chapter or Chapter 156 by a residential mortgage
17 loan originator may bring an action for recovery of actual monetary
18 damages and reasonable attorney's fees and court costs.

19 SECTION 80. Subsection (b), Section 157.030, Finance Code,
20 is amended to read as follows:

21 (b) This section does not limit or preclude the liability of
22 a residential mortgage loan originator for:

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

25 (2) failing to comply with a provision of or duty
26 arising under an agreement with a residential mortgage loan
27 applicant under this chapter or Chapter 156; or

1 (3) violating any other state or federal law.

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

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

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

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

26 Sec. 157.032. POWERS OF COMMISSIONER. (a) In addition to
27 any other action, proceeding, or remedy authorized by law, the

1 commissioner may institute an action in the commissioner's name to
2 enjoin a violation of Subchapter D or a rule adopted under
3 Subchapter D. To sustain an action filed under this subsection, it
4 is not necessary to allege or prove that an adequate remedy at law
5 does not exist or that substantial or irreparable damage would
6 result from a continued violation of Subchapter D.

7 (b) The commissioner is not required to provide an appeal
8 bond in any action or proceeding to enforce Subchapter D.

9 (c) The commissioner may authorize specific employees to
10 conduct hearings and make recommendations for final decisions in
11 contested cases.

12 SECTION 83. Section 158.104, Finance Code, is amended to
13 read as follows:

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

23 SECTION 84. Subdivisions (17) and (21), Section 180.002,
24 Finance Code, are amended to read as follows:

25 (17) "Regulatory official" means:

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

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

4 (C) with respect to Chapters 342, 347, 348, and
5 351, the consumer credit commissioner [~~and~~

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

11 (21) "Rulemaking authority" means [~~+~~
12 [~~(A)~~] the finance commission [~~, except as~~
13 ~~provided by Paragraph (B)~~], or

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

17 SECTION 85. Subsection (a), Section 180.056, Finance Code,
18 is amended to read as follows:

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

27 SECTION 86. Subsection (a), Section 180.251, Finance Code,

1 is amended to read as follows:

2 (a) The [~~Except as provided by Subsection (b), the~~] savings
3 and mortgage lending commissioner shall administer and enforce this
4 chapter with respect to individuals licensed under Chapter [~~156 or~~]
5 157.

6 SECTION 87. The following provisions of the Finance Code
7 are repealed:

8 (1) Section 15.4024;

9 (2) Sections 156.2015, 156.205, and 156.405;

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

11 (4) Subsections (b), (b-1), and (b-2), Section
12 156.201;

13 (5) Subsection (b), Section 156.102, Subsection (c),
14 Section 156.202, Subsection (c), Section 156.203, Subsection (b),
15 Section 156.2041, Subsection (b), Section 156.2042, Subsection
16 (b), Section 156.2043, Subsection (c), Section 156.2044, Section
17 156.2045, Subsection (a), Section 156.206, Subsections (b), (c),
18 and (d), Section 156.207, and Subsection (c), Section 156.2081;

19 (6) Subsections (b-1), (b-2), and (j), Section
20 156.208;

21 (7) Subsection (f), Section 157.003, Finance Code, as
22 added by Chapter 655 (Senate Bill No. 1124), Acts of the 82nd
23 Legislature, Regular Session, 2011;

24 (8) Subsection (d), Section 157.012, and Subsection
25 (b), Section 157.015; and

26 (9) Subsection (b), Section 180.251.

27 SECTION 88. The changes in law made by this Act do not

1 affect any pending proceeding or action brought under Subchapter D,
2 Chapter 156, Finance Code, as that subchapter existed immediately
3 before amendment by this Act, and the former law is continued in
4 effect for that purpose.

5 SECTION 89. The changes in law made by this Act apply only
6 to a license or registration issued or renewed on or after the
7 effective date of this Act. A license or registration issued or
8 renewed before the effective date of this Act is governed by the law
9 in effect on the date the license or registration was issued or
10 renewed, and the former law is continued in effect for that purpose.

11 SECTION 90. This Act takes effect September 1, 2013.

S.B. No. 1004

David Dewhurst
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 1004 passed the Senate on April 18, 2013, by the following vote: Yeas 31, Nays 0.

Betsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 1004 passed the House on May 8, 2013, by the following vote: Yeas 146, Nays 1, two present not voting.

Robert Haney
Chief Clerk of the House

Approved:

24 MAY '13
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6:00PM O'CLOCK
MAY 24 2013

[Signature]
Secretary of State