

NOTICE OF PRECOMMENT DRAFT AND STAKEHOLDERS WEBINAR

SML Rulemaking – Chapter 52, Department Administration July 23, 2021 Pre-comment Draft

The Department of Savings and Mortgage Lending (SML or the Department) is considering new rules in 7 Texas Administrative Code (TAC) Chapter 52, concerning Department Administration.

The Department will hold a stakeholder webinar on July 28, 2021 at 1:30 p.m. to discuss the pre-comment draft of the rule changes.

The Department will also accept informal written pre-comments until August 4, 2021 at 5:00 p.m.

The Department plans to present the rules for consideration by the Finance Commission at its August 20, 2021 meeting.

Participating in the Webinar

The webinar will be conducted utilizing the Webex platform by Cisco.

Note: Participants need to preregister for the webinar. While WebEx has the capability for participants to appear by video, participation by the panelists and attendees will be by audio only (with screen sharing by the panelists).

[Registration Link](#)

Submission of Informal Pre-comments

Informal written pre-comments regarding the Department's draft rule amendments may be submitted by email to rules.comments@sml.texas.gov or by mail to Iain A. Berry, Associate General Counsel, at 2601 North Lamar Blvd., Suite 201, Austin, Texas 78705-4294. **Informal pre-comments must be received by 5:00 p.m. on August 4, 2021.**

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Overview of Changes:

- New Rules Concerning the Recovery Fund. Pursuant to Finance Code Section 13.016 and Chapter 156, Subchapter F, the Department's commissioner (Commissioner) is required to administer and maintain a fund against which persons may make a claim to recover actual out-of-pocket damages incurred because of acts committed by a licensed residential mortgage loan originator. The rules, if adopted, would:
 - clarify that a person seeking to make a claim against the recovery fund must file a sworn written application using the current form prescribed by the Commissioner and posted on the Department's website;
 - clarify when the Commissioner disburses funds on an approved claim;
 - clarify that, in order to get paid, a claimant must provide the necessary information and documentation to be a valid payee for purposes of the Texas Comptroller of Public Accounts;
 - clarify that a licensed residential mortgage loan originator against whom a claim was made and approved may have an administrative penalty imposed on him or her; and
 - establish a process and procedure for paying approved claims in the event funds in the recovery fund are unavailable at the time the claim is approved.
- New Rules Concerning the Mortgage Grant Fund. During the 87th Legislature (Regular Session), House Bill 3617 (HB3617) was enacted into law (eff. September 1, 2021) which, among other things, amends Chapter 156 of the Finance Code to create a new Subchapter G, creating a new fund for the Commissioner to administer funded by excess contributions to the recovery fund as provided by Finance Code Chapter 156, Subchapter E. The primary purpose of the fund – known as the mortgage grant fund (Mortgage Grant Fund) – is to promote financial education relating to mortgage loans and to support other statewide financial education, activities, and programs. The rules, if adopted, would:
 - clarify the Commissioner's role as manager of the Mortgage Grant Fund;
 - provide for the creation of a policy manual reflecting the Commissioner's policies and procedures governing administration of the Mortgage Grant Fund;
 - provide for the appointment of an employee of the Department as grant coordinator to assist the Commissioner in managing the Mortgage Grant Fund;

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- provide for the creation of an advisory committee to make recommendations to the Commissioner and the grant coordinator concerning management of the Mortgage Grant Fund; and
- establish various processes and procedures for grantees to apply for and receive disbursements from the Mortgage Grant Fund, including:
 - eligibility requirements;
 - requiring a written agreement with the grantee to govern its participation in the grant program;
 - reporting requirements for the grantee; and
 - procedures for the grantee to seek reimbursement from the fund.
- New Rules Concerning Recovery Claims Made Under the Mortgage Grant Fund. HB3617 further amended Finance Code Chapter 156 by creating a new Section 156.555, allowing for claims to be made against the Mortgage Grant Fund to compensate persons for 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 license required under Finance Code Chapter 157. The rules, if adopted, would:
 - clarify that a person seeking to make a claim against the Mortgage Grant Fund must file a sworn written application using the current form prescribed by the Commissioner and posted on the Department’s website;
 - clarify when the Commissioner disburses funds on an approved claim;
 - clarify that, in order to get paid, a claimant must provide the necessary information and documentation to be a valid payee for purposes of the Texas Comptroller of Public Accounts;
 - clarify that an unlicensed individual against whom a claim was approved may be subject to an administrative penalty and that failure to pay such penalty constitutes grounds for denial of licensure under Finance Code Chapter 157;
 - establish a process and procedure for paying approved claims in the event funds in the Mortgage Grant Fund are unavailable at the time the claim is approved;
 - clarify certain eligibility requirements for making a claim against the Mortgage Grant Fund required by application of the requirements for making a claim against the Commissioner’s recovery fund under Finance Code Chapter 156, Subchapter F; and
 - clarify how of the statute of limitations period for making claims on the recovery fund under Finance Code Chapter 156, Subchapter F applies to

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the Mortgage Grant Fund, thereby allowing for claims prior to the inception of Finance Code Section §156.555.

<rule>

TITLE 7 BANKING AND SECURITIES

PART 4 DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 52 DEPARTMENT ADMINISTRATION

SUBCHAPTER D RECOVERY FUND

§52.100. Purpose and Applicability.

The rules contained in 7 TAC Chapter 52, Subchapter D govern the Commissioner's administration of the recovery fund the Commissioner is required to establish, administer and maintain in accordance Tex. Fin. Code §13.016 and Finance Code Subchapter G.

§52.101. Definitions.

The following terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) "Application," means a request, in any form, for an offer (or a response to a solicitation for an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, and/or the mortgage loan amount.

(2) "Claimant" means a mortgage applicant making or seeking to make a claim on the recovery fund in accordance with Tex. Fin. Code §156.504.

(3) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts an originator in response to a solicitation) to

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obtain a residential mortgage loan, and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application as provided by paragraph (1) of this section.

(6) "Originator" has the meaning assigned by Tex. Fin. Code §180.002 in defining the term "residential mortgage loan originator."

(7) "Recovery fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Tex. Fin. Code §13.016 and Finance Code Chapter 156, Subchapter F.

(8) "Residential mortgage loan" has the meaning assigned by Tex. Fin. Code §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a dwelling, but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as residence.

§52.102. Claims.

(a) Application Required. As provided by Tex. Fin. Code §156.504, a claimant seeking to recover from the recovery fund must file a sworn written application with the Department which must be made on the current form prescribed by the Commissioner and posted on the Department's website.

(b) Payment of Approved Claims. Upon approval of a claim made on the recovery fund, the Commissioner will issue an order disbursing funds from the recovery fund. The Commissioner will direct Department staff to cause disbursement of the funds after the date upon which such order becomes final and unappealable for purposes of Government Code Chapter 2001.

(c) Cooperation by Claimant Required. The claimant must cooperate with Department staff's instructions for effectuating disbursement of an approved claim from the recovery fund. Among other things, the claimant must provide such information and complete such documentation required in order to cause the claimant to be a valid payee for purposes of the Texas Comptroller of Public Accounts.

§52.103. Administrative Penalty Against Originator.

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In accordance with Tex. Fin. Code §§156.506(c) and 157.0241(b), in order to effect reimbursement of amounts disbursed from the recovery fund, if the Commissioner approves a claim made under Tex. Fin. Code §156.504, the Commissioner may impose an administrative penalty on the originator whose acts or omissions caused the claim in an amount not less than the approved recovery fund claim amount. Upon payment of the administrative penalty, the Commissioner will cause the funds to be deposited into the recovery fund.

§52.104. Liability for Unpaid Claims.

(a) No Liability. The recovery fund, the Commissioner, and the Department are not liable to a claimant for a claim approved by the Commissioner under Tex. Fin. Code §156.504 if the assets of the recovery fund are insufficient to pay such claim.

(b) Payment of Unpaid Claims. If the recovery fund contains insufficient assets to pay a claim approved by the Commissioner under Tex. Fin. Code §156.504, the Commissioner will:

_____ (1) record the time and date the claim was approved; and

_____ (2) pay approved but unpaid claims for which a recordation was made under paragraph (1) as funds in the recovery fund become available, in the order of the recorded time and date of such claims.

SUBCHAPTER E MORTGAGE GRANT FUND

§52.200. Purpose and Applicability.

The rules contained in 7 TAC Chapter 52, Subchapter E govern the Commissioner's administration of the Mortgage Grant Fund as provided by Finance Code Chapter 156, Subchapter G other than claims made against the Mortgage Grant Fund in accordance with Tex. Fin. Code §156.555 which are governed by the rules contained in 7 TAC Chapter 52, Subchapter F (relating to Mortgage Grant Fund: Recovery Claims for Unlicensed Activity).

§52.201. Definitions.

The following terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) "Auxiliary mortgage loan activity company" has the meaning assigned by Tex. Fin. Code §156.002.

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(2) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(3) "Department" means the Department of Savings and Mortgage Lending.

(4) "Finance Commission" means the Finance Commission of Texas.

(5) "Grant Administration Policy Manual" means the Grant Administration Policy Manual created by the Commissioner to reflect the various policies and procedures governing administration of the Mortgage Grant Fund grant program.

(6) "Grant Coordinator" means the individual appointed as the Grant Coordinator for purposes of §52.203 of this title (relating to Grant Coordinator).

(7) "Mortgage Grant Advisory Committee" or "MGAC" means the Mortgage Grant Advisory Committee formed to advise the Commissioner concerning administration of the fund, as provided by §52.204 of this title (relating to Mortgage Grant Advisory Committee).

(8) "Mortgage Grant Fund" or "fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code Chapter 156, Subchapter G.

§52.202. Commissioner as Manager.

(a) Manager. As provided by Tex. Fin. Code §156.553, the Commissioner serves as manager of the fund and administers all aspects of the fund.

(b) Periodic Reports to the Finance Commission. Unless the Finance Commission directs otherwise, the Commissioner or his or her designee (including but not limited to the Grant Coordinator) will report to the Finance Commission audit committee concerning the status and activities of the Mortgage Grant Fund at each regularly called meeting of the Finance Commission audit committee, or otherwise at the request of the Finance Commission or its audit committee.

(c) Grant Administration Policy Manual. The Commissioner will develop and create a manual reflecting the Commissioner's policies and procedures governing administration of the fund and the Mortgage Grant Fund grant program to be known and referred to as the Grant Administration Policy Manual (GAPM). The

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GAPM, and any amendments to the GAPM, must be approved by the Finance Commission audit committee.

(d) Website. The Commissioner is expressly authorized to establish and maintain a website in connection with administering the fund, through which the Commissioner may disseminate information to the public and prospective grantees concerning the fund.

(e) Promotional Materials. The Commissioner is expressly authorized to develop and distribute various informational materials to promote the fund to the public or otherwise raise awareness of the purpose and activities of the fund.

§52.203. Grant Coordinator.

The Commissioner may appoint an employee of the Department to serve as grant coordinator to assist the Commissioner in discharging his or her duties related to the Mortgage Grant Fund. The Grant Coordinator serves under the direction of the Commissioner and serves as liaison between grantees and the Mortgage Grant Advisory Committee (MGAC). The Commissioner may delegate any authority of the Commissioner to act as manager of the fund to the Grant Coordinator, including any specific duties listed under Tex. Fin. Code §156.553 except the authority to appear at hearings or judicial proceedings related to the fund.

§52.204. Mortgage Grant Advisory Committee.

(a) Formation. The Mortgage Grant Advisory Committee (MGAC) is created to serve in an advisory role and makes program recommendations to the Commissioner and Grant Coordinator regarding administration of the fund and the grant awards to be made from the fund. The MGAC will continue in existence until the abolishment date set by §52.30 of this title (relating to Advisory Committees and Informal Conferences).

(b) Governance. MGAC will be governed by the provisions of the Grant Administration Policy Manual, including composition, eligibility, appointment, and membership terms.

(c) Reporting. MGAC will make and report written recommendations to the Commissioner and Grant Coordinator for review and consideration concerning all aspects of administering the Fund including:

(1) evaluating grant applications to determine whether the application should be approved, and if so, a specific grant amount to award;

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(2) monitoring ongoing grant awards to determine compliance;

(3) considering potential amendments to the Grant Administration Policy Manual;
and

(4) evaluating potential candidates for appointment to the MGAC.

§53.205. Grant Program.

(a) Scope. This section governs the administration of and disbursements from the fund (each of which is considered a grant disbursement) for purposes of:

(1) Tex. Fin. Code §156.554(b)(1), concerning grants to an auxiliary mortgage loan activity company or another nonprofit organization to promote financial education relating to mortgage loans; and

(2) Tex. Fin. Code §156.554(b)(3), concerning disbursements to provide support for statewide financial education, activities, and programs specifically related to mortgage loans for consumers, or for the purposes provided by Tex. Fin. Code §393.628(c).

(b) Grant Cycle. The fund may have one competitive grant cycle each year.

(1) Funding determination. The grant funding determination is made by the Commissioner by December 31 of each year. The Commissioner will determine the separate funding available and allocated to each of the purposes of Tex. Fin. Code §156.554(b)(1) and (3).

(2) Programming cycle. A new fund grant programming cycle may open on January 1 of each year, and if opened, closes on December 31 of such year.

(c) Eligibility. A grant made under Tex. Fin. Code §156.554(b)(1) and subsection (a)(1) of this section may only be given to a company licensed by the Department as an auxiliary mortgage loan activity company, or a nonprofit organization. A grant made under Tex. Fin. Code §156.554(b)(3) and subsection (a)(2) of this section may be given to a nonprofit organization, school, or for-profit entity. Grant funding is not available to entities licensed or registered by the Department other than auxiliary mortgage loan activity companies in accordance with Tex. Fin. Code §156.554(b)(1) and subsection (a)(1) of this section.

(d) Grant Application. To be considered for the grant program, an applicant must complete and submit the grant application by the deadline and in accordance with the instructions for the applicable grant cycle. Late or incomplete grant applications will not be accepted. Meeting eligibility criteria and timely submission of a grant application does not guarantee award of a grant in any amount.

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(e) Review and Approval. The Commissioner, upon receipt of advice from the MGAC and Grant Coordinator, will review timely and complete applications and determine the grants to be awarded.

(f) Grant Agreement. To participate in the grant program, a grantee approved by the Commissioner to receive a grant must execute the grant agreement approved by the Commissioner for the applicable grant cycle.

(g) Grantee Compliance. A grantee must comply with applicable financial, administrative, and programmatic terms and conditions, and exercise proper stewardship over grant program funds. A grantee must use awarded funds in compliance with the following in effect for the applicable grant cycle:

_____ (1) all applicable state laws and regulations;

_____ (2) all applicable federal laws and regulations;

_____ (3) the Grant Administration Policy Manual;

_____ (4) the grant application, including all application guidelines and instructions at the time of application;

_____ (5) the grant agreement signed by the Commissioner or the Commissioner's designee and the grantee;

_____ (6) all reporting and monitoring requirements, as outlined in the grant agreement and subsection (f) of this section; and

_____ (7) any other guidance documents posted on the Mortgage Grant Fund website for the applicable grant cycle.

(h) Reporting and Monitoring.

_____ (1) General reporting requirements. To receive reimbursement of grant expenses a grantee must:

_____ (A) submit periodic grant reports in a timely;

_____ (B) maintain satisfactory compliance with the grant agreement and the grant activities as proposed by the grantee in its grant application;

_____ (C) identify, track and report performance measures;

_____ (D) track and report participant demographic information.

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(2) Progress reports. A grantee must submit progress reports that demonstrate performance outcomes and financial information over the term of the grant in accordance with and by the deadlines set forth in the grant agreement.

(3) Six-month longitudinal report. A grantee must submit a six-month longitudinal report after program completion to demonstrate program objectives.

(4) Monitoring. The Grant Coordinator or MGAC may use the following methods to monitor a grantee’s performance and expenditures:

(A) Desk review. The Grant Coordinator or MGAC may conduct a desk review of a grantee to review and compare individual source documentation and materials to summary data provided during the reporting process; or

(B) Site visits and inspection reviews. The Grant Coordinator or MGAC may conduct a scheduled site visit to a grantee’s place of business to review compliance and performance issues. Site visits may be comprehensive or limited in scope.

(i) Reimbursement.

(1) Eligibility. To be eligible for reimbursement, a grantee must comply with all terms of the grant agreement, as well as all other items provided in subsection (g) of this section. To ensure that grant funds are used for a public purpose, as provided by Tex. Fin. Code §156.556(1), grant funds will only be awarded on a cost reimbursement basis for all actual, allowable, and allocable costs incurred by a grantee pursuant to the grant agreement. Expenses that were incurred before the beginning or after the termination of the grant agreement are not eligible for reimbursement.

(2) Procedure. To request reimbursement for work performed on grant activities, a grantee must submit a grant reimbursement report in accordance with and by the deadlines set forth in the grant agreement. A grantee must submit a detailed expense report with supporting documentation to justify the reimbursement request. The Department will review and approve requests for reimbursement that satisfy the requirements and promptly disburse funds in response to approved requests.

(j) Misuse of Grant Funds. The Commissioner may require a refund of grant funds already disbursed to the grantee and may cancel the grant agreement or disqualify the grantee from receiving future grants from the fund if:

(1) grant funds are not used for a public purpose allowable under Tex. Fin. Code §156.554;

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(2) grant funds are used in an illegal manner;

(3) grantee violates the terms or conditions of the grant agreement; or

(4) the Commissioner discovers grantee made any material misrepresentations in obtaining the grant or in seeking reimbursement of grant funds.

SUBCHAPTER F MORTGAGE GRANT FUND: RECOVERY CLAIMS FOR UNLICENSED ACTIVITY

§52.300. Purpose and Applicability.

The rules contained in 7 TAC Chapter 52, subchapter F govern the Commissioner's administration of Tex. Fin. Code §156.555, allowing for claims to be made against the Mortgage Grant Fund to compensate persons for 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 Finance Code Chapter 157.

§52.301. Definitions.

The following terms, when used in this subchapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) "Application," means a request, in any form, for an offer (or a response to a solicitation for an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, and/or the mortgage loan amount.

(2) "Claimant" means a mortgage applicant making or seeking to make a claim on the Mortgage Grant Fund in accordance with Tex. Fin. Code §156.555.

(3) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts an originator or an individual acting or attempting to act in the capacity of an originator in response to a solicitation) to

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obtain a residential mortgage loan, and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application as provided by paragraph (1) of this section.

(6) "Mortgage Grant Fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code Chapter 156, Subchapter G.

(7) "Originator" has the meaning assigned by Tex. Fin. Code §180.002 in defining the term "residential mortgage loan originator."

(8) "Recovery fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Tex. Fin. Code §13.016 and Finance Code Chapter 56, Subchapter F.

(9) "Residential mortgage loan" has the meaning assigned by Tex. Fin. Code §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a dwelling, but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as residence.

§52.302. Claims.

(a) Application Required. As provided by Tex. Fin. Code §156.555, adopting by reference the procedural requirements for making a claim on the Commissioner's recovery fund in accordance with Finance Code Chapter 156, Subchapter F, a claimant must file a sworn written application with the Department and must be made on the current form prescribed by the Commissioner and posted on the Department's website.

(b) Payment of Approved Claims. Upon approval of a claim on the Mortgage Grant Fund for purposes of Tex. Fin. Code §156.555, the Commissioner will issue an order disbursing funds from the Mortgage Grant Fund. The Commissioner will direct Department staff to cause disbursement of the funds after the date upon which such order becomes final and unappealable for purposes of Government Code Chapter 2001.

(c) Cooperation by Claimant Required. The claimant must cooperate with Department staff's instructions for effectuating disbursement of an approved claim from the Mortgage

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Grant Fund for purposes of Tex. Fin. Code §156.555. Among other things, the claimant must provide such information and complete such documentation required in order to cause the claimant to be a valid payee for purposes of the Texas Comptroller of Public Accounts.

§52.303. Consequences for Unlicensed Individual.

(a) Administrative Penalty. In accordance with Tex. Fin. Code §§157.031 and 157.023, and in order to potentially effect reimbursement of amounts disbursed from the Mortgage Grant Fund for purposes of Tex. Fin. Code §156.555, if the Commissioner approves a claim made under Tex. Fin. Code §156.555, the Commissioner may impose an administrative penalty on the unlicensed individual whose fraudulent acts caused the claim in an amount not less than the approved Mortgage Grant Fund claim amount. As provided by Tex. Fin. Code §156.551(b), upon payment of the administrative penalty, the Commissioner will cause the funds to be deposited into the Mortgage Grant Fund, to the extent such fund has not met or exceeded the maximum amount set for the fund as provided by Tex. Fin. Code §156.551(c).

(b) Grounds for Denial. As provided by Tex. Fin. Code §180.201(1), failure by the unlicensed individual to pay the administrative penalty imposed by this section constitutes a violation of the order of the Commissioner and therefore constitutes grounds for denial of an application from such individual for a residential mortgage loan originator license.

§52.304. Liability for Unpaid Claims.

(a) No Liability. The recovery fund, the Commissioner, and the Department are not liable to a claimant for a claim approved by the Commissioner under Tex. Fin. Code §156.555 if the assets of the Mortgage Grant Fund are insufficient to pay such claim.

(b) Payment of Unpaid Claims. If the Mortgage Grant Fund contains insufficient assets to pay a claim approved by the Commissioner under Tex. Fin. Code §156.555, the Commissioner will:

_____ (1) record the time and date the claim was approved; and

_____ (2) pay approved but unpaid claims for which a recordation was made under paragraph (1) as funds in the Mortgage Grant Fund become available, in the order of the recorded time and date of such claims; and, provided, the Commissioner determines in his or her sole discretion that disbursement from the Mortgage Grant Fund will not injure, hamper, or impede the Commissioner's administration of and disbursements from the Mortgage Grant Fund for purposes of Tex. Fin. Code §156.554.

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§52.305. Eligibility.

(a) Application of Finance Code Chapter 156, Subchapter F. Tex. Fin. Code §156.555(b), adopts by reference the eligibility and procedural requirements for making a claim on the Commissioner’s recovery fund in accordance with Finance Code Chapter 156, Subchapter F. This section clarifies how certain of such requirements apply to a claim made on the Mortgage Grant Fund in accordance with Tex. Fin. Code §156.555.

(b) Actions by an Unlicensed Individual Acting as an Originator. To be eligible to recover from the Mortgage Grant Fund, the individual alleged to have caused harm to the claimant must have been acting or attempting to act in the capacity of an originator - actions for which a license under Finance Code Chapter 157 was required as provided by Tex. Fin. Code §157.012 and §81.100 of this title (relating to Licensing - General).

(c) Fraudulent Acts. Tex. Fin. §156.501, applicable to claims made on the recovery fund, provides that recovery from such fund is limited to acts by a licensed originator that constitute a violation of specific, enumerated provisions of Tex. Fin. Code §§157.024(a) and 156.304(b). As provided by Tex. Fin. Code §156.555, a claimant may make a recovery against the Mortgage Grant Fund for fraudulent acts committed by an unlicensed individual who acted as an originator as provided by subsection (b) of this section. To the extent a claimant meets his or her burden of proof to establish that an unlicensed individual committed acts of fraud, such claim is deemed to be eligible for recovery for purposes of Tex. Fin. Code §156.501 under Tex. Fin. Code §157.024(a)((3), describing a violation for a licensed originator engaging in improper, fraudulent, or dishonest dealings.

§52.306. Statute of Limitations at Inception.

Tex. Fin. Code §156.555(b) adopts by reference the statute of limitations period for making claims on the recovery fund under Finance Code Subchapter F and applies it to claims made against the Mortgage Grant Fund in accordance with Tex. Fin. Code §156.555. Specifically, pursuant to Tex. Fin. Code §156.503, a claim made on the recovery fund may not be filed after the fourth anniversary of the date the acts causing the actual damages occurred or should reasonably have been discovered. Tex. Fin. Code §156.555 and the Mortgage Grant Fund came into existence effective September 1, 2021. As a result, the earliest possible date for a claim to have accrued for purposes of the limitations period applicable to claims made under Tex. Fin. Code §156.555 is September 1, 2017, and any claim accruing prior to that date is barred.