

NOTICE OF PRECOMMENT DRAFT AND STAKEHOLDERS WEBINAR

SML Mortgage Licensing Rule Review July 1, 2021 Pre-comment Draft

The Department of Savings and Mortgage Lending (SML or the Department) is considering repeals, new rules, and amendments to 7 Texas Administrative Code (TAC), Chapter 80, affecting licensed mortgage companies, and Chapter 81, affecting mortgage bankers and residential mortgage loan originators. The rule changes were identified during the Department's periodic review of its rules conducted pursuant to Government Code § 2001.039. This notice contains an overview of the rule changes being considered, followed by the text of such rule changes.

The Department will hold a stakeholder webinar on July 16, 2021 at 9:00 a.m. to discuss the pre-comment draft of the rule changes.

The Department will also accept informal written pre-comments until August 1, 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](#)

Submittal 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,

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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 1, 2021.***

Overview of Changes: Chapter 80 – Texas Residential Mortgage Loan Companies

- Changes Concerning Licensing Procedures. The Department utilizes the Nationwide Mortgage Licensing System & Registry (NMLS), owned and operated by a company that is a wholly-owned subsidiary of the Conference of State Bank Supervisors (CSBS), as its licensing database system. The rules, if adopted, would make various changes to clarify and set forth in rule various procedures utilized by the Department in licensing residential mortgage loan companies. The rules, if adopted, among other things:
 - clarify when an applicant for licensure should contact NMLS for assistance versus the Department;
 - establish conditions upon which the Department's commissioner may issue a conditional license;
 - clarify how a mortgage company goes about sponsoring individual residential mortgage loan originators and its responsibility for supervising such originators;
 - clarify the role of the individual residential mortgage loan originator appointed as the qualifying individual for purposes of Finance Code § 156.002, including requiring the consent of such individual to be appointed; and
 - clarify the authority of the Department's commissioner to approve an application for license renewal or reinstatement with a deficiency so as to enable the mortgage company to continue to conduct regulated activities while the deficiency is resolved.
- Changes Concerning License Records. The rules, if adopted, would make various changes concerning: the license records the Department maintains with respect to each licensee in NMLS; responsibility for a licensed mortgage company to update such records; and the Department's procedures for contacting a licensed mortgage company using the contact information derived from such records. The rules, among other things:
 - expand existing requirements concerning a mortgage company updating and keeping current in the NMLS system various information associated with its license (contact information, information concerning its owners, etc.) by requiring that the mortgage company update such records within ten days after a material change occurs in such information;

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- set forth in rule an existing requirement prohibiting a licensed mortgage company from allowing an individual residential mortgage loan originator to act on its behalf prior to becoming sponsored of record by such mortgage company in the NMLS system;
 - set forth in rule procedures for the Department to contact a mortgage company using the contact information designated by the licensed mortgage company; and
 - create a new requirement providing that a licensed mortgage company must monitor the email address it has designated in the NMLS system for purposes of receiving correspondence or other notices from the Department.
- Other Modernization and Update Changes. The amendments make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; removing unnecessary or duplicative provisions; updating terminology; and reorganizing the rules sections by subject matter and to align more closely with similar subject matter in 7 TAC Chapter 81.

Overview of Changes: Chapter 81 – Mortgage Bankers and Residential Mortgage Loan Originators

- Changes Concerning Licensing Procedures. The Department utilizes the Nationwide Mortgage Licensing System & Registry (NMLS), owned and operated by a company that is a wholly-owned subsidiary of the Conference of State Bank Supervisors (CSBS), as its licensing database system. The rules, if adopted, would make various changes to clarify and set forth in rule various procedures utilized by the Department in licensing residential mortgage loan originators. The proposed rules, among other things:
 - clarify when an applicant for licensure should contact NMLS for assistance versus the Department;
 - establish conditions upon which the commissioner may issue a conditional license;
 - clarify how a residential mortgage loan originator goes about being sponsored by a mortgage company or mortgage banker so as to engage in regulated activities with the license;
 - clarify how an individual licensed in another jurisdiction or by a different licensing authority as an originator, or registered as an originator, may engage in regulated activities under temporary authority while he or she seeks licensure with the Department;

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- with respect to an applicant for licensure who is a military service member or military veteran, clarify that his or her military service, training or education cannot constitute grounds for waiving the pre-licensing education and coursework required by Finance Code § 180.056;
 - with respect to pre-licensing education, expand an existing requirement by requiring that such pre-licensing education lapses if the individual does not achieve licensure by limiting the applicable time period from four years to three years;
 - with respect to pre-licensing education taken in another jurisdiction, create a new requirement that any portion of such training and coursework which was specific to such jurisdiction does not count towards the minimum hours of required pre-licensing education;
 - clarify the authority of the Department's commissioner to approve an application for license renewal or reinstatement with a deficiency so as to enable the individual to continue to conduct regulated activities while the deficiency is resolved;
 - clarify the authority of the Department's commissioner to conduct background checks other than through the NMLS system; and
 - set forth in rule procedures for conducting background checks by the Department.
- Criminal Conviction Guidelines. Pursuant to Occupations Code § 53.025, the Department, as a licensing authority, is required to issue guidelines relating to the Department's administration of Occupations Code Chapter 53. The rules, if adopted, would implement Occupations Code § 53.025 by adopting comprehensive criminal conviction guidelines in rule. The authority for denial of an application for licensure based on an individual's criminal history under the Occupations Code is in addition to and augments that arising from the Finance Code. The rules, if adopted, would further outline the authority of the Department's commissioner for denial of an application for licensure under the Finance Code based on criminal history, including outlining certain offenses deemed by rule to be grounds for denial under the Finance Code.
- Changes Concerning License Records. The rules, if adopted, would make various changes concerning: the license records the department maintains with respect to each licensee in NMLS; responsibility for a licensed residential mortgage loan originator to update such records; and the Department's procedures for contacting a residential mortgage loan originator using the contact information derived from such records. The proposed rules, among other things:

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- expand existing requirements concerning a residential mortgage loan originator updating and keeping current in the NMLS system various information associated with his or her license (contact information, disclosures concerning criminal history and financial background, etc.) by requiring that the originator update such records within ten days after a material change occurs in such information;
- set forth in rule an existing requirement prohibiting a residential mortgage loan originator from engaging in regulated activities prior to becoming sponsored of record in the NMLS system by a mortgage company or mortgage banker;
- set forth in rule procedures for the Department to contact a residential mortgage loan originator utilizing the contact information designated by the residential mortgage loan originator in his or her NMLS license records; and
- create a new requirement requiring a residential mortgage loan originator to monitor the email address he or she has designated in the NMLS system to manage their account with NMLS and receive system-generated messages from NMLS, for purposes of receiving correspondence or other notices from the department.
- Other Modernization and Update Changes. The amendments make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; removing unnecessary or duplicative provisions; updating terminology; and reorganizing the rules sections by subject matter and to align more closely with similar subject matter in 7 TAC Chapter 80.

<rule>

TITLE 7 BANKING AND SECURITIES

PART 4 DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

CHAPTER 80 TEXAS RESIDENTIAL MORTGAGE LOAN COMPANIES

SUBCHAPTER B LICENSING

{{Existing §80.100 will be repealed and replaced with new §80.100}}

~~§80.100. Licensing – General.~~

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(a) A person is required to be licensed under Finance Code, Chapter 156 if the person:

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(1) Engages in the business of residential mortgage loan origination on real property located in the state of Texas;

(2) Represents or holds himself out to the public as a "loan officer," "mortgage consultant," "mortgage broker," "loan modification/refinance consultant," or "residential mortgage loan originator," or otherwise represents that the individual can or will perform the activities of a residential mortgage loan originator;

(3) Provides disclosures to a prospective borrower or discusses or explains such disclosures. Disclosures include but are not limited to the residential mortgage loan originator disclosure form; truth in lending disclosures, the good faith estimate of settlement costs, affiliated business arrangements; and disclosures relating to the dual role as a residential mortgage loan originator and real estate broker or sales agent. An individual who prepares a required disclosure under the direction and supervision of a licensed residential mortgage loan originator, but who does not discuss the disclosure with a prospective borrower shall not be deemed to have provided a disclosure for purposes of this paragraph;

(4) Determines the lender(s) or investor(s) to whom the loan will be submitted;

(5) Issues or signs a prequalification letter or preapproval letter; or

(6) Is a loan processor or underwriter who is an independent contractor.

(b) Applications for a company or an originator license must be submitted through the Nationwide Mortgage Licensing System and Registry and must be on the prescribed application forms.

(c) An application, notice, or any other filing with the department will only be deemed submitted if it is complete. A filing is complete only if all required supporting documentation is included and only if all required fees have been received by the department. The application may be deemed withdrawn if an applicant fails to provide to the department, within 30 days from the date of request, any information or supplemental documentation.

(d) An applicant may be issued a license in an inactive status if the applicant completes the required application form and complies with all requirements of licensure except for the requirement of an approved sponsorship. Upon submission and approval of a sponsorship, the license may be changed to active status.

(e) The department is limited to those specific license and registration status codes available through the Nationwide Mortgage Licensing System and Registry. The

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~~Nationwide Mortgage Licensing System and Registry maintains a website that contains the specific status codes available and their definitions. The available status codes changed by the department are reflected in the licensee's record on the Nationwide Mortgage Licensing System and Registry and on the Nationwide Mortgage Licensing System and Registry Consumer Access website.~~

~~(f) The Commissioner may authorize an investigation to be conducted against an originator if there is reasonable cause to suspect or believe that an originator may have been convicted of a criminal offense which may constitute grounds for the suspension or revocation of that originator's license.~~

~~(g) The Commissioner may require such additional, clarifying, or supplemental information from any applicant for the issuance of any license pursuant to Finance Code, Chapter 156 as is deemed necessary or advisable to determine that the requirements of Finance Code, Chapter 156 have been met.~~

~~(h) The Commissioner or the Commissioner's designee may at their discretion, after reviewing the circumstances of each situation, issue a license on a conditional basis.]~~

§80.100. Licensing - General.

(a) License Required. A person, unless otherwise exempt as provided by Tex. Fin. Code §156.202, is required to be licensed under Finance Code Chapter 156 if the person engages in or conducts the business of residential mortgage loan origination, or advertises or holds that person out to the public as engaging in or conducting the business of residential mortgage loan origination concerning a loan or prospective loan secured or designed to be secured by residential real estate located in Texas.

(b) Submittal to NMLS. Applications for a mortgage company license must be submitted through NMLS and must be made on the appropriate form prescribed by NMLS.

(c) Questions Concerning NMLS. Licenses are issued and administered by the Department through the NMLS system - a licensing database system utilized by many regulatory agencies and licensing authorities throughout the United States that is owned and operated by a company that is a wholly-owned subsidiary of the Conference of State Bank Supervisors (CSBS). The Department utilizes the NMLS system but did not design or create it and does not control its underlying functionality. Questions concerning the NMLS system and how to make filings within the NMLS system should be directed to NMLS. NMLS maintains a "Resource Center" on its website (nationwidelicensingsystem.org) designed to guide and assist licensees and applicants for licensure concerning how to utilize the NMLS system. Licensees and applicants for licensure with questions concerning using the NMLS system and how to make an application or other filing within NMLS should consult the NMLS Resource Center and contact NMLS for assistance. NMLS also maintains and has published on its website

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information concerning the minimum requirements to be licensed by the Department under Finance Code Chapter 156. However, questions concerning the minimum requirements for licensure and a person's eligibility for licensure should be directed to the Department.

(d) NMLS License Status Codes. The Department is limited to those specific license status codes available through the NMLS system. NMLS maintains a website (nationwidelicensingsystem.org) that describes the specific status codes available and their meaning. The available status codes managed by the Department are reflected in the licensee's record in NMLS and on the NMLS Consumer Access website (nmlsconsumeraccess.org).

(e) Supplemental Information. The Commissioner may require such additional, clarifying, or supplemental information from any applicant for the issuance of a license pursuant to Finance Code Chapter 156 as the Commissioner deems necessary or advisable to determine that the requirements of Finance Code Chapter 156 have been met.

(f) Incomplete Filings; Deemed Withdrawal. An application, notice, or any other filing submitted to the Department will only be considered filed if it is complete. A filing is complete only if all required supporting documentation is included and only if all required fees have been received. The application may be deemed withdrawn and the applicable fee forfeited if an applicant fails to provide to the Department, within 30 days from the date of request, any supplemental information or supporting documentation needed to render the filing complete.

(g) Conditional License Status. The Commissioner may, in his or her sole discretion, after reviewing the circumstances of each situation, issue a license on a conditional basis. Licensees under a probated suspension or probated revocation will be classified (coded) as being and placed in a conditional license status for the duration of the probationary period. Reasonable terms and conditions for a conditional license include submitting specified records to the Department on a periodic basis to ensure continued compliance to address a previously-noted deficiency.

§80.101. Sponsorship of Originator; Responsibility for Originator's Actions.

(a) Sponsorship Required. A mortgage company acts by and through one or more originators who must be sponsored by the mortgage company in NMLS. In order to sponsor an originator, the mortgage company must first register a relationship with the originator in NMLS. Once such relationship has been registered, the mortgage company may then file a request in NMLS to establish sponsorship of the originator. An originator must make corresponding license record amendments in NMLS in order to establish such sponsorship, as provided by this section. Sponsorship is not effective until the

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sponsorship request has been reviewed and approved by the Department. A mortgage company must not allow an individual to act on its behalf in the capacity of an originator until such sponsorship has been established and is effective.

(b) Responsibility for Originator's Actions. By sponsoring an originator, or otherwise allowing an individual to act on its behalf in the capacity of an originator, that mortgage company and the Qualified Individual for the mortgage company each assumes responsibility for the actions of such originator or individual acting in the capacity of an originator. As provided by Tex. Fin. Code § 156.201, all violations of law by an originator or individual acting in the capacity of an originator are deemed to be attributable and imputed to the mortgage company sponsoring the originator or for which the individual acting as an originator was allowed to act, and the Commissioner may seek disciplinary action against the mortgage company, the Qualified Individual for the mortgage company, and the originator simultaneously for the same conduct giving rise to the alleged violation. As a result, a mortgage company and its Qualified Individual are both charged with knowledge of and must ensure compliance by their sponsored originators with the requirements of Finance Code Chapters 157 and 180, and the requirements of the Department's rules pertaining to originators, contained in Chapter 81 of this title (relating to Mortgage Bankers and Residential Mortgage Loan Originators).

(c) Termination of Sponsorship. Sponsorship may be terminated by either the sponsoring mortgage company or the sponsored originator. If sponsorship is terminated, the party terminating the sponsorship must immediately make a license record amendment in NMLS notifying the Department that the sponsorship has been terminated, as provided by Tex. Fin. Code §156.211 and §157.019.

{{Existing §80.102 will be repealed and replaced with new §80.101}}

~~§80.102. Sponsorship and Termination Thereof.~~

~~(a) An originator's license must be sponsored in the Nationwide Mortgage Licensing System and Registry by any company employing the originator.~~

~~(b) By sponsoring an originator, a company acknowledges and accepts responsibility for the actions of the originator pursuant to Finance Code, Chapter 156.~~

~~(c) Sponsorship may be removed by either the sponsoring company or the sponsored originator. If sponsorship is terminated the party terminating the sponsorship shall notify the Commissioner through the Nationwide Mortgage Licensing System and Registry that the sponsorship has terminated.]~~

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§80.102. Qualified Individual.

(a) Qualified Individual Required. A mortgage company must appoint at least one originator to be the mortgage company's qualifying individual for purposes of Tex. Fin. Code §156.002 (Qualified Individual). As provided by Tex. Fin. Code § 156.002, the Qualified Individual is a personal representative of the mortgage company and is deemed to have the authority to bind the mortgage company concerning its operations in Texas. In order to serve as the Qualified Individual, the licensee must hold his or her individual license in a status which enables him or her to engage in regulated activities with the license, and must be sponsored by the mortgage company for which he or she seeks to serve as Qualified Individual. An originator may serve as qualifying individual for more than one mortgage company, provided, he or she is actually affiliated with and can oversee the mortgage company's operations. A mortgage company may appoint more than one originator as Qualifying Individual. If a mortgage company appoints more than one originator to serve as Qualified Individual, each such originator is deemed to serve concurrently and is responsible for all of the originators sponsored by the mortgage company or individuals otherwise allowed to act as originator on its behalf.

(b) Consent Required. The appointment of the Qualified Individual must be consented to by the originator. The originator must acknowledge and confirm his or her consent by making a corresponding license record amendment in NMLS to reflect such appointment, and must be made using the appropriate form prescribed by NMLS.

{{Existing §80.103 will be repealed and replaced with new §80.107}}

[§80.103. License Record Changes.

~~(a) Proper sponsorship and disclosure of each location at which an originator is conducting regulated activities is required to be on their Nationwide Mortgage Licensing System and Registry record.~~

~~(b) A licensee shall notify the Commissioner by filing a license amendment through the Nationwide Mortgage Licensing System and Registry of the following:~~

~~(1) any change of address;~~

~~(2) name change; or~~

~~(3) a new, or changed company, organization, or assumed name.]~~

{{Existing §80.104 will be repealed}}

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~~§80.104. Background Checks.~~

~~(a) In connection with each application for an originator's license, the applicant shall provide authorization and fingerprints as prescribed by the Nationwide Mortgage Licensing System and Registry necessary to conduct a criminal background history check through the Federal Bureau of Investigation.~~

~~(b) In connection with each application for an originator's license, the Commissioner may conduct a criminal background history check through the Texas Department of Public Safety.~~

~~(c) In connection with each application for the issuance of an originator's license, the applicant shall provide authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain an independent credit report from a consumer reporting agency.~~

~~(d) In connection with each application for the issuance of an originator's license, the applicant shall provide to the Commissioner and the Nationwide Mortgage Licensing System and Registry information related to any administrative, civil, or criminal findings by a governmental jurisdiction.]~~

§80.105. Fees.

(a) License fees will be established by the Commissioner in accordance with Finance Code Chapter 156. The amount of the fees may be modified on not less than 30 days' advance notice posted on the Department's website.

(b) All fees are nonrefundable and nontransferable.

(c) The Commissioner may, in addition to any disciplinary action, collect a fee in an amount not to exceed \$50 for any returned check or credit card chargeback.

(d) For examinations that are conducted outside of Texas, the Commissioner may collect reimbursement of actual expenses. Actual expenses incurred will be in compliance with the Department's policies and procedures.

§80.106. Renewals.

(a) A license may be renewed upon:

(1) submission of a completed application for renewal through NMLS [~~the Nationwide Mortgage Licensing System and Registry~~] together with [~~the~~] payment of the applicable renewal application fee; and

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(2) a determination that the applicant continues to meet the minimum requirements for licensure [license issuance].

(b) Commissioner's Discretion to Approve with a Deficiency. The Commissioner may, in his or her sole discretion, approve a renewal application with a deficiency the Commissioner deems to be minor in nature so as to allow the licensee to continue conducting regulated activities under the license while the deficiency is resolved. An application approved by the Commissioner with a pending deficiency will be assigned in NMLS the license status code "Approved - Deficient." Approval of the application by this method does not relieve the licensee of the obligation to resolve the deficiency noted. Failure to resolve such deficiency constitutes grounds for the Commissioner to take disciplinary action against the licensee, including suspension or revocation of the license [Renewal of a license may be denied for reasons provided in Finance Code, §156.208].

(c) Supplemental Information. The Commissioner may require such additional, clarifying, or supplemental information from any applicant for the renewal of any license issued pursuant to Finance Code, Chapter 156 as is deemed by the Commissioner to be necessary or advisable to determine compliance with the requirements of Finance Code[;] Chapter 156.

(d) Reinstatement. The provisions of this section also apply to a person seeking reinstatement of a recently-expired license, as provided by Tex. Fin. Code §156.2081, and should be construed accordingly.

{{Existing §80.107 will be repealed and replaced with new §80.105}}

§80.107. Fees.

~~(a) Fees relating to a license or registration shall be established by the Commissioner in accordance with Finance Code, Chapter 156. The amount of the fees may be modified upon not less than 30 days advance notice posted on the department's website.~~

~~(b) All fees are nonrefundable and nontransferable.~~

~~(c) The Commissioner may, in addition to any disciplinary action, collect a fee in an amount not to exceed \$50 for any returned check or credit card chargeback.~~

~~(d) For examinations that are conducted out of state, the Commissioner may collect reimbursement of actual expenses. Actual expenses incurred will be in compliance with department's policies and procedures.]~~

§80.107. NMLS License Records; Notice to Licensee.

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(a) Amendments to License Records Required. Unless Tex. Fin. Code §156.211 applies and requires additional notice, a mortgage company must amend its NMLS license records (MU1 filing) within 10 days after any material change occurs affecting any aspect of the MU1 filing, including but not limited to:

(1) name (which must be accompanied by supporting documentation submitted to the Department establishing the name change);

(2) the addition or elimination of an assumed name (a/k/a trade name or "doing business as" name; which must be accompanied by a certificate of assumed business name or other documentation establishing the assumed name);

(2) the contact information for the mortgage company listed in the MU1 under "Identifying Information":

(A) principal address (main address);

(B) mailing address;

(C) phone number;

(D) fax number; and

(E) email address;

(3) the contact information listed under "Resident/Registered Agent";

(4) the contact information listed under "Contact Employee Information;" and

(5) answers to disclosure questions (which must be accompanied by explanations for each such disclosure, together with supporting documentation concerning such disclosure).

(b) Amendments to MU2 Associations Required. A mortgage company must cause the individuals who are required to register an association with the mortgage company (MU2 filing) to do so within the NMLS system and must ensure such associations are amended within 10 days after any material change occurs affecting such associations.

(c) Branch Office License Required. A mortgage company must apply for and obtain a branch office license for each branch office of the mortgage company which must be licensed prior to conducting operations at such office. The application must be submitted through NMLS and must be made on the appropriate form prescribed by NMLS (MU3

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filing). A mortgage company must amend its MU3 filing to surrender the branch office license within 10 days after closing a branch office.

(d) Notice to Licensee. Service of any correspondence, notification, alert, message, official notice or other written communication issued by the Department will be served on the licensee in accordance with this subsection utilizing the licensee's current contact information of record in NMLS unless another method is prescribed by other applicable law (notice to the originator in a matter submitted to the State Office of Administrative Hearings for an adjudicative hearing will be performed in accordance with 1 Tex. Admin. Code §155.105).

(A) Service by Email. Service by email will be made utilizing the email address the mortgage company has designated in its MU1 filing listed under "Identifying Information." Service by email is complete on transmission of the email by the Department to the mortgage company's email service provider. The mortgage company has an ongoing duty and a continuing obligation to monitor such email account including to ensure that correspondence from the Department is not lost in a "spam" or similar folder, or undelivered due to intervention by a "spam filter" or similar service. A mortgage company is deemed to have constructive notice of any email correspondence or NMLS system notifications sent to the email address it has designated in its MU1 filing listed under "Identifying Information."

(B) Service by Mail. Service by mail is complete on deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. If service is made on the originator by mail and the document communicates a deadline by or a time during which the originator must perform some act, such deadline or time period for action is extended by three days. However, if service was made by another method prescribed by this subsection, such deadline or time period will be calculated based on the earliest possible deadline or shortest applicable time period.

CHAPTER 81 MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SUBCHAPTER A GENERAL PROVISIONS

§81.2. Definitions.

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As used in this chapter, and in the Commissioner's administration and enforcement of Finance Code, Chapter 157 and Chapter 180, the following terms have the meanings indicated:

(1) "Application," as used in Tex. Fin. Code §§157.002(6) and 180.002(19), and paragraph (19) of this section 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) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code, Chapter 13.

(3) "Commissioner's designee" means an employee of the Department performing his or her assigned duties or such other person as the Commissioner may designate in writing. A Commissioner's designee is deemed to be the Commissioner's authorized "personnel or representative" as such term is used in Finance Code, Chapter 157.

~~[(4) "Criminal Offense" means any violation of any state or federal criminal statute which:~~

~~(A) involves theft, misappropriation, or misapplication, of monies or goods in any amount;~~

~~(B) involves the falsification of records, perjury, or other similar criminal offenses indicating dishonesty;~~

~~(C) involves the solicitation of, the giving of, or the taking of bribes, kickbacks, or other illegal compensation;~~

~~(D) involves deceiving the public by means of swindling, false advertising or the like;~~

~~(E) involves acts of moral turpitude and violation of duties owed to the public including, but not limited to, the unlawful manufacture, distribution, or trafficking in a controlled substance, dangerous drug, or marijuana;~~

~~(F) involves acts of violence or use of a deadly weapon;~~

~~(G) when considered with other violations committed over a period of time appears to establish a pattern of disregard for, a lack of respect for, or apparent inability to follow, the criminal law; or~~

~~(H) involves any other crime which the Commissioner determines has a reasonable relationship to whether a person is fit to serve as an originator in a manner consistent with~~

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~~the purposes of Finance Code, Chapter 157 and the best interest of the State of Texas and its residents.]~~

(4) ~~[(5)]~~ "Compensation" includes salaries, bonuses, commissions, and any financial or similar incentive.

(5) ~~[(6)]~~ "Department" means the Department of Savings and Mortgage Lending.

(6) ~~[(7)]~~ "Dwelling" means a residential structure that contains one to four units and is attached to residential real estate. The term includes an individual condominium unit, cooperative unit, or manufactured home, if it is used as a residence.

(7) ~~[(8)]~~ "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts a mortgage banker or originator in response to a solicitation) to 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.

(8) ~~[(9)]~~ "Mortgage banker" has the meaning assigned by Tex. Fin. Code §157.002.

(9) ~~[(10)]~~ "Mortgage company" means, for the purposes of this chapter, a "residential mortgage loan company" as that term is defined by Tex. Fin. Code §157.002.

(10) ~~[(11)]~~ "Nationwide Mortgage Licensing System and Registry" or "NMLS" has the meaning assigned by Tex. Fin. Code §157.002 and §180.002.

(11) ~~[(12)]~~ "Offers or negotiates the terms of a residential mortgage loan," as used in Tex. Fin. Code §157.002(6) and §180.002(19) means, among other things, when an individual:

(A) arranges or assists a mortgage applicant or prospective mortgage applicant in obtaining or applying to obtain, or otherwise secures an extension of consumer credit for another person, in connection with obtaining or applying to obtain a residential mortgage loan;

(B) presents for consideration by a mortgage applicant or prospective mortgage applicant particular residential mortgage loan terms (including rates, fees and other costs); or

(C) communicates directly or indirectly with a mortgage applicant or prospective mortgage applicant for the purpose of reaching a mutual understanding about particular residential mortgage loan terms.

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(12) ~~[(13)]~~ "Originator" has the meaning assigned by Tex. Fin. Code §157.002 and §180.002 in defining "residential mortgage loan originator." Paragraphs (11) ~~[(12)]~~ and (18) ~~[(19)]~~ of this section do not affect the applicability of such statutory definition. Individuals who are specifically excluded under such statutory definition, as provided by Tex. Fin. Code §180.002(19)(B), are excluded under this definition and for purposes of this chapter. Persons who are exempt from licensure as provided by Tex. Fin. Code §180.003 are exempt for purposes of this chapter, except as otherwise provided by Tex. Fin. Code §180.051.

(13) ~~[(14)]~~ "Physical office" means an actual office where the business of mortgage lending and/or the business of taking or soliciting residential mortgage loan applications is conducted.

(14) ~~[(15)]~~ "Recovery Fund" means the fund administered and maintained by the Commissioner for the recovery of actual damages by persons aggrieved by a licensed residential mortgage loan originator, established pursuant to Tex. Fin. Code §13.016.

(15) ~~[(16)]~~ "Residential mortgage loan" has the meaning assigned by Tex. Fin. Code §157.002 and §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 a residence.

(16) ~~[(17)]~~ "Residential real estate" has the meaning assigned by Tex. Fin. Code §180.002 and includes both improved or unimproved real estate or any portion of or interest in such real estate on which a dwelling is or will be constructed or situated.

(17) ~~[(18)]~~ "Social media site" means any digital platform accessible by a mortgage applicant or prospective mortgage applicant where the mortgage banker or sponsored originator does not typically own the hosting platform but otherwise exerts editorial control or influence over the content within their account, profile, or other space on the digital platform, from which the mortgage banker or sponsored originator posts commercial messages or other content designed to solicit business.

(18) ~~[(19)]~~ "Takes a residential mortgage loan application," as used in Tex. Fin. Code §157.002(6) and §180.002(19) in defining "residential mortgage loan originator" means when an individual receives a residential mortgage loan application for the purpose of facilitating a decision on whether to extend an offer of residential mortgage loan terms to a mortgage applicant or prospective mortgage applicant, whether the application is received directly or indirectly from the mortgage applicant or prospective mortgage applicant, and regardless of whether or not a particular lender has been identified or selected.

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SUBCHAPTER B LICENSING OF INDIVIDUAL ORIGINATORS

{{Existing §81.100 will be repealed and replaced with new §81.100}}

~~§81.100. Licensing – General.~~

~~(a) An individual is required to be licensed under Finance Code, Chapter 157 if the individual:~~

~~(1) Engages in the business of residential mortgage loan origination on real property located in the state of Texas;~~

~~(2) Represents or holds himself out to the public as a "loan officer," "mortgage consultant," "mortgage broker," "loan modification/refinance consultant," or "residential mortgage loan originator," or otherwise represents that the individual can or will perform the activities of a residential mortgage loan originator;~~

~~(3) Provides disclosures to a prospective borrower or discusses or explains such disclosures. Disclosures include but are not limited to the residential mortgage loan originator disclosure form; truth in lending disclosures, the good faith estimate of settlement costs, affiliated business arrangements; and disclosures relating to the dual role as a residential mortgage loan originator and real estate broker or sales agent. An individual who prepares a required disclosure under the direction and supervision of a licensed residential mortgage loan originator, but who does not discuss the disclosure with a prospective borrower shall not be deemed to have provided a disclosure for purposes of this paragraph;~~

~~(4) Determines the lender(s) or investor(s) to whom the loan will be submitted;~~

~~(5) Issues or signs a prequalification letter or preapproval letter; or~~

~~(6) Is a loan processor or underwriter who is an independent contractor.~~

~~(b) Applications for a company registration or an originator license must be submitted through the Nationwide Mortgage Licensing System and Registry and must be on the prescribed application forms.~~

~~(c) The department is limited to those specific license and registration status codes available through the Nationwide Mortgage Licensing System and Registry. The Nationwide Mortgage Licensing System and Registry maintains a website that contains the specific status codes available and their definitions. The available status codes changed by the department are reflected in the licensee's record on the Nationwide Mortgage Licensing System and Registry and on the Nationwide Mortgage Licensing System and Registry Consumer Access website.~~

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~~(d) An applicant may be issued a license in an inactive status if the applicant completes the required application form and complies with all requirements of licensure except for the requirement of an approved sponsorship. Upon submission and approval of a sponsorship, the license may be changed to active status.~~

~~(e) An originator, through written notice to the department, may place his or her license in an inactive status at any time during the license term. While in an inactive status an originator must not engage in the origination of residential mortgage loans as defined in §81.2(6) of this chapter, and must continue to meet the statutory requirements of the license. Upon submission and approval of a sponsorship, the license may be changed to an active status.~~

~~(f) The Commissioner may require such additional, clarifying, or supplemental information from any applicant for the issuance or renewal of any license pursuant to Finance Code, Chapter 157 as is deemed necessary or advisable to determine that the requirements of Finance Code, Chapter 157 have been met and maintained.~~

~~(g) The Commissioner may authorize an investigation to be conducted against an originator if there is reasonable cause to suspect or believe that an originator may have been convicted of a criminal offense which may constitute grounds for the suspension or revocation of that originator's license.~~

~~(h) An application, notice, or any other filing with the department will only be deemed submitted if it is complete. A filing is complete only if all required supporting documentation is included and only if all required fees have been received by the department. The application may be deemed withdrawn if an applicant fails to provide to the department, within 30 days from the date of request, any information or supplemental documentation.~~

~~(i) The Commissioner or the Commissioner's designee may at their discretion, after reviewing the circumstances of each situation, issue a license on a conditional basis.]~~

§81.100. Licensing - General.

(a) License Required. An individual, unless otherwise exempt as provided by Tex. Fin. Code §157.0121, acting under temporary authority as provided by Tex. Fin. Code §180.0511 and §81.102 of this title (relating to Temporary Authority), is required to be licensed under Finance Code Chapter 157 if the individual acts or attempts to act in the capacity of an originator concerning a loan or prospective loan secured or designed to be secured by residential real estate located in Texas. The following conduct by an individual constitutes actions made in the capacity of an originator:

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(1) representing or holding that individual out to the public through advertising or other means of communication as a "loan officer," "mortgage consultant," "mortgage broker," "loan modification/refinance consultant," or "residential mortgage loan originator," or otherwise representing that the individual can or will perform the activities of an originator;

(2) providing disclosures to a prospective borrower or discussing or explaining such disclosures. Disclosures include but are not limited to the originator disclosure form; truth in lending disclosures, the good faith estimate of settlement costs, TILA-RESPA integrated disclosures (loan estimate and closing disclosure), affiliated business arrangements; and disclosures relating to the dual role as an originator and real estate broker or sales agent. An individual who prepares a required disclosure under the direction and supervision of a license originator, but who does not discuss the disclosure with a mortgage applicant is deemed not to have provided a disclosure for purposes of this paragraph;

(3) determining the lender(s) or investor(s) to whom the loan will be submitted;

(4) issuing or signing a conditional pre-qualification letter or conditional approval letter, as provided by §81.201 of this title (relating to Loan Status Forms); or

(5) acting as a loan processor or underwriter who is an independent contractor.

(b) Submittal to NMLS. Applications for an originator license must be submitted through NMLS and must be made on the appropriate form prescribed by NMLS.

(c) Questions Concerning NMLS. Licenses are issued and administered by the Department through the NMLS system - a licensing database system utilized by many regulatory agencies and licensing authorities throughout the United States that is owned and operated by a company that is a wholly-owned subsidiary of the Conference of State Bank Supervisors (CSBS). The Department utilizes the NMLS system but did not design or create it and does not control its underlying functionality. Questions concerning the NMLS system and how to make filings within the NMLS system should be directed to NMLS. NMLS maintains a "Resource Center" on its website (nationwidelicensingsystem.org) designed to guide and assist licensees and applicants for licensure concerning how to utilize the NMLS system. Licensees and applicants for licensure with questions concerning use of the NMLS system and how to make an application or other filing within NMLS should consult the NMLS Resource Center and contact NMLS for assistance. NMLS also maintains and has published on its website information concerning the minimum requirements to be licensed by the Department as an originator. However, questions concerning the minimum requirements for licensure and an individual's eligibility for licensure should be directed to the Department.

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(d) NMLS License Status Codes. The Department is limited to those specific license status codes available through the NMLS system. NMLS maintains a website (nationwidelicensingsystem.org) that describes the specific status codes available and their meaning. The available status codes managed by the Department are reflected in the licensee's record in NMLS and on the NMLS Consumer Access website (nmlsconsumeraccess.org).

(e) Supplemental Information. The Commissioner may require such additional, clarifying, or supplemental information from any applicant for the issuance of any license issued under Finance Code Chapters 157 and 180 as the Commissioner deems necessary or advisable to determine that the requirements of Finance Code Chapters 157 and 180 have been met.

(f) Incomplete Filings; Deemed Withdrawal. An application, notice, or other filing submitted to the Department will only be considered filed if it is complete. A filing is complete only if all required supporting documentation is included and all required fees have been paid. The application may be deemed withdrawn and the applicable fee forfeited if an applicant fails to provide to the Department, within 30 days from the date of the request, any supplemental information or supporting documentation needed to render the filing complete.

(g) Conditional License Status. The Commissioner may, in his or her sole discretion, after reviewing the circumstances of each situation, issue a license on a conditional basis. Licensees under a probated suspension or probated revocation will be classified (coded) as being and placed in a conditional license status for the duration of the probationary period. Reasonable terms and conditions for a conditional license include:

(A) submitting specified records to the Department on a periodic basis to ensure continued compliance to address a previously-noted deficiency; and

(B) submitting on a periodic basis proof of ongoing payment or other evidence of financial responsibility for a debt, judgment, lien, child support obligation, or other financial delinquency affecting the licensee.

(h) Inactive License Status Pending Sponsorship. An applicant may be issued a license in an inactive status if the applicant completes the required application form and complies with all requirements for licensure except for the requirement of an approved sponsorship. Upon submission and approval of a sponsorship, the license may be changed to an active status. While in an inactive status, a licensee must not act or attempt to act in the capacity of an originator.

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(i) Voluntary Inactive License Status. An originator may place his or her license in an inactive status at any time during the license term by terminating his or her sponsorship as provided by §81.101 of this title (relating to Sponsorship of Originator). While in an inactive status, a licensee must not act or attempt to act in the capacity of an originator and must continue to meet the minimum requirements for licensure.

§81.101. Sponsorship of Originator ~~[and Termination Thereof]~~.

(a) Sponsorship Required. In order to act in the capacity of an originator an [An] originator's license must be sponsored in NMLS ~~[the Nationwide Mortgage Licensing System and Registry]~~ by a mortgage company licensed under Finance Code Chapter 156 or a mortgage banker registered under Finance Code Chapter 157. In order to establish sponsorship by a mortgage company or a mortgage banker, the originator must amend his or her NMLS license record (MU4 filing) to reflect employment by such mortgage company or mortgage banker and grant such mortgage company or mortgage banker access to his or her license records in order to allow the mortgage company or mortgage banker to register a relationship with the originator in NMLS. The mortgage company or mortgage banker must make corresponding license record amendments in NMLS in order to establish such sponsorship, as provided by this section, including a request to establish such sponsorship. Sponsorship is not effective until the mortgage company's or mortgage banker's sponsorship request has been reviewed and approved by the Department. A licensee must not act or attempt to act in the capacity of an originator on behalf of a mortgage company or mortgage banker until sponsorship with such mortgage company or mortgage banker has been established and is effective.

(b) Termination of Sponsorship. Sponsorship may be ~~terminated~~ [removed] by [either] the sponsoring mortgage company or mortgage banker, or the originator. If sponsorship is terminated, the party terminating the sponsorship must immediately make a license record amendment in ~~[shall notify the Commissioner through]~~ NMLS notifying the Department ~~[the Nationwide Mortgage Licensing System and Registry]~~ that the sponsorship has been terminated, as provided by Tex. Fin. Code §156.211 and §157.019.

(c) Lapsing of Sponsorship; Inactive Status. Failure by an originator to maintain sponsorship will result in the license automatically reverting to an inactive status, during which time the licensee must not act or attempt to act in the capacity of an originator.

{{Existing §81.102 will be repealed}}

~~§81.102. Recovery Fund.~~

~~(a) A designated portion of the originator's license and renewal fees, as determined by the Commissioner, shall be allocated to the Recovery Fund for the purpose of compliance with Finance Code, Chapter 180.~~

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~~(b) Administration of the Recovery Fund and any claims to the Recovery Fund against an originator shall be in accordance with the provisions of Finance Code, Chapter 156, Subchapter F.]~~

§81.102. Temporary Authority.

(a) Purpose and Applicability. The purpose of this section is to specify how an individual licensed in another jurisdiction or by a different licensing authority as an originator, or registered as an originator may, avail himself or herself of the ability to act in the capacity of an originator in Texas temporarily while he or she seeks licensure with the Department, as provided by Tex. Fin. Code §180.0511.

(b) Application Required. An individual seeking to act under temporary authority must comply with the requirements of Tex. Fin. Code §180.0511. Among other requirements, Tex. Fin. Code §180.0511 requires that the individual file an application with the Department seeking licensure in order to be recognized as having temporary authority. An individual must not act or attempt to act in the capacity of an originator until such application has been filed and the individual has been assigned an NMLS license status code by the Department recognizing such temporary authority. Several status codes reflect and recognize such temporary authority. An individual may confirm his or her temporary authority by reviewing his or her status on the NMLS Consumer Access website (nmlsconsumeraccess.org).

(c) Incomplete Applications. The requirements of §81.100(f) (relating to Licensing - General), providing for the deemed withdrawal of an application that is not complete, are inapplicable to an application for which temporary authority is conferred.

{{Existing §81.103 will be repealed and replaced with new §81.111}}

~~§81.103. Request for Criminal History Eligibility Determination.~~

~~An individual considering applying for an originator license may request a criminal history evaluation letter regarding the person's eligibility for a license, as defined in Occupations Code, Chapter 53, Subchapter D. The request must be made on a form promulgated by the department and include all pertinent court documentation including certified copies of all judgments and orders, and an explanation of the circumstances and events of the criminal action that led to the conviction or sentence, and the basis for the person's potential ineligibility. The fee for this process is \$75 per request. Upon receipt of the request, the department will:~~

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~~(1) Investigate the information provided by the individual to determine if there are grounds for ineligibility; and~~

~~(2) Notify the individual as to the department's determination within 90 days of receipt of the individual's request.]~~

§81.103. Licensing of Military Service Members, Military Veterans, and Military Spouses.

(a) Purpose and Applicability. The purpose of this section is to specify licensing requirements for military service members, military veterans, and military spouses, in accordance with Occupations Code Chapter 55.

(b) Definitions. In this section, the terms "military service member," "military spouse," and "military veteran" have the meanings assigned by Tex. Occ. Code §55.001.

(c) Late Renewal. As provided by Tex. Occ. Code §55.002, an individual is exempt from any increased fee or other penalty for failing to renew a residential mortgage loan originator license in a timely manner if the individual establishes to the satisfaction of the Commissioner that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

(d) Expedited License Procedure. As provided by Tex. Occ. Code §55.004 and §55.005, the Department will process a license application as soon as practicable and issue a license to a qualifying applicant who is a military service member, military veteran, or military spouse, if the applicant:

(1) holds a current license in another jurisdiction as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117; or

(2) held a residential mortgage loan originator license in Texas within the five years preceding the date of the application.

(e) Temporary Authority for Military Spouse. Tex. Occ. Code §55.0041 provides that a military spouse may engage in a business or occupation for which a license is required without obtaining the applicable license if the spouse is currently licensed in good standing in another jurisdiction with substantially similar licensing requirements. However, federal law imposes specific, comprehensive requirements governing when and under what circumstances an individual sanctioned to act as an originator in another jurisdiction may act under temporary authority in this state (12 U.S.C. §5117("employment transition of loan originators")) including: (i) requiring that he or she not be subject to or served with a cease and desist order; (ii) requiring a criminal background check; (iii) requiring that he

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or she not had an application for an originator license denied, revoked, or suspended in any governmental jurisdiction; and (iv) imposing a shorter time period during which the individual may act under such temporary authority. Tex. Occ. Code §55.0041(c) further requires that a military spouse “comply with all other laws and regulations applicable to the business or occupation.” As a result, a military spouse seeking to avail himself or herself of the temporary authority conferred by Tex. Occ. Code §55.0041 must apply for and seek temporary authority in accordance with Tex. Fin. Code §180.0511 and §81.102 of this title (relating to Temporary Authority).

(f) Substantial Equivalency. For purposes of this section and Tex. Occ. Code §55.004, a residential mortgage loan originator license issued in another jurisdiction is substantially equivalent to a Texas residential mortgage loan originator license if it is issued in accordance with the requirements of the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117. The Department will verify a license issued in another jurisdiction through NMLS.

(g) Credit for Military Experience. As provided by Tex. Occ. Code §55.007, with respect to an applicant who is a military service member or military veteran, the Department will credit verified military service, training, or education toward the licensing requirements by considering the service, training, or education as part of the applicant’s employment history. The following items cannot be substituted for military service, training, or education:

(A) the pre-licensing examination, as provided by Tex. Fin. Code §180.057;

(B) the required pre-licensing education training and coursework, as provided by Tex. Fin. Code §180.056 and §81.104 of this title (relating to Required Education); and

(C) continuing education training and coursework, as provided by Tex. Fin. Code §180.060 and §81.104 of this title (relating to Required Education).

{{Existing §81.104 will be repealed and replaced with new §81.106}}

~~§81.104. Renewals.~~

~~(a) A license may be renewed upon:~~

~~(1) submission of a completed application for renewal through the Nationwide Mortgage Licensing System and Registry together with the payment of the applicable renewal application fee;~~

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~~(2) determination that the applicant continues to meet the minimum requirements for license issuance; and~~

~~(3) providing satisfactory evidence to the Commissioner that the license holder has completed the continuing education requirements of Finance Code, §180.060.~~

~~(b) Renewal of a license may be denied for reasons provided in Finance Code, §157.015.~~

~~(c) For service members on active military duty, as detailed in Occupations Code, Chapter 55, the department will comply with the requirements as set out in that statute.]~~

§81.104. Required Education.

(a) Pre-Licensing Education. As provided by Finance Code Chapter 180, an individual applying for licensure must complete the pre-licensing education and coursework as prescribed by the federal S.A.F.E. Mortgage Licensing Act (federal SAFE Act) and approved by NMLS. Such education and coursework must include three hours of instruction relating to applicable state law governing residential mortgage loan origination in Texas.

(b) Lapsing of Pre-Licensing Education. An individual applying for licensure other than a current license holder seeking renewal or the holder of a recently-expired license seeking reinstatement as provided by Tex. Fin. Code §157.016 (an individual seeking an initial license) must have completed the required pre-licensing education and coursework described by subsection (a) within the three years preceding the date of application, otherwise, such individual must retake the pre-licensing education and coursework approved and offered at the time of the application.

(c) Recognition of Pre-Licensing Education Taken in Another Jurisdiction. As provided by Tex. Fin. Code §180.056, the Department will recognize pre-licensing education coursework taken in another jurisdiction subject to the requirements of the federal SAFE Act, provided, it is approved by NMLS for that purpose and otherwise meets the applicable requirements of the federal SAFE Act, and Finance Code Chapter 180. However, the Department will not recognize those hours of pre-licensing education taken in another jurisdiction the content of which was dedicated to education specific to that jurisdiction and that comprised the twelve-hour undefined electives portion of such pre-licensing education program and coursework. An individual may take coursework that is of limited duration and limited in scope to the applicable laws, rules and practice considerations concerning licensure in Texas in order to supplement and remedy a shortfall in hours

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derived from non-recognition of pre-licensing education taken in another jurisdiction as provided by this section.

(d) Continuing Education. As provided by Tex. Fin. Code §180.060 and §81.106 of this title (relating to Renewals), a licensee must complete, on an annual basis, continuing education and coursework approved by NMLS in order to renew the license.

§81.105. Fees.

(a) Fees relating to a license or registration will ~~[shall]~~ be established by the Commissioner in accordance with Finance Code~~[-]~~ Chapter 157. The amount of the fees may be modified upon not less than 30 days' ~~[days]~~ advance notice posted on the Department's ~~[department's]~~ website.

(b) All fees are nonrefundable and nontransferable.

(c) The Commissioner may, in addition to any disciplinary action, collect a fee in an amount not to exceed \$50 for any returned check or credit card chargeback.

(d) For examinations that are conducted outside of Texas ~~[out of state]~~, the Commissioner may collect reimbursement of actual expenses. Actual expenses incurred will be in compliance with the Department's ~~[department's]~~ policies and procedures.

{{Existing §81.106 will be repealed}}

~~§81.106. Education Program.~~

~~(a) Pre-licensing and continuing education courses required under Finance Code, Chapter 180 shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry.~~

~~(b) In addition to the pre-licensing educational requirements, in Finance Code, Chapter 180, a residential mortgage loan originator must complete three hours of education classes specifically relating to Texas statutes and rules.]~~

§81.106. Renewals.

(a) A license may be renewed upon:

(1) submission of a completed application for renewal through NMLS together with payment of the applicable renewal application fee;

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(2) a determination that the applicant continues to meet the minimum requirements for licensure; and

(3) satisfactory evidence provided to the Department that the license holder has completed the continuing education requirements of Finance Code §180.060.

(b) Commissioner's Discretion to Approve with a Deficiency. The Commissioner may, in her or her sole discretion, approve a renewal application with a deficiency the Commissioner deems to be minor in nature so as to allow the licensee to continue conducting licensed activity while the deficiency is resolved. An application approved by the Commissioner with a pending deficiency will be assigned in NMLS the license status code "Approved - Deficient." Approval of the application by this method does not relieve the licensee of the obligation to resolve the deficiency noted. Failure to resolve such deficiency is grounds for the Commissioner to take disciplinary action against the licensee, including suspension or revocation of the license.

(c) Supplemental Information. The Commissioner may require such additional, clarifying, or supplemental information from any applicant for the renewal of any license pursuant to Finance Code Chapters 157 and 180 as is deemed by the Commissioner to be necessary or advisable to determine compliance with the requirements of Finance Code Chapters 157 and 180.

(d) Reinstatement. The provisions of this section also apply to an individual seeking reinstatement of a recently-expired license, as provided by Tex. Fin. Code §157.016, and should be construed accordingly.

{{Existing §81.107 will be repealed and replaced with new §81.107}}

[§81.107. License Record Changes.

~~(a) Proper sponsorship and disclosure of each location at which an originator is conducting regulated activities is required to be on their Nationwide Mortgage Licensing System and Registry record.~~

~~(b) A licensee shall notify the Commissioner by filing a license amendment through the Nationwide Mortgage Licensing System and Registry of the following:~~

~~(1) any change of address;~~

~~(2) name change; or~~

~~(3) a new, or changed company, organization, or assumed name.]~~

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§81.107. NMLS Records; Notice to Licensee

(a) Amendments to License Records Required. Unless Tex. Fin. Code §157.019 applies and requires additional notice, an originator licensed by the Department must amend his or her NMLS license record (MU4 filing) within 10 days after any material change occurs affecting any aspect of the MU4 filing, including, but not limited to:

(1) name (which must be accompanied by supporting documentation submitted to the Department establishing the name change);

(2) phone number;

(3) email address (including his or her NMLS account email address, as provided by subsection (d) of this section);

(4) mailing address;

(5) residential history;

(6) employment history; and

(7) answers to disclosure questions (which must be accompanied by explanations for each such disclosure, together with supporting documentation concerning such disclosure).

(b) Amendments Requiring New Credit History Check. An originator amending his or her MU4 filing to make a financial disclosure is deemed to have authorized the Department to retrieve a current copy of his or her credit report, as provided by Tex. Fin. Code §157.0132 and this section, and the originator must further amend his or her MU4 filing to formally consent to and request such credit report within the NMLS system.

(c) Amendments Requiring New Criminal Background Check. An originator amending his or her MU4 filing to make a criminal disclosure is deemed to have authorized the Department to perform an additional criminal background check in accordance with Tex. Fin. Code §157.0132 and §81.108 of this title (relating to Background Checks) and the originator must further amend his or her MU4 filing to formally consent to and request such criminal background check within the NMLS system.

(d) Notice to Licensee. Service of any correspondence, notification, alert, message, official notice or other written communication issued by the Department will be served on the licensee in accordance with this subsection utilizing the licensee's current contact information of record in NMLS unless another method is prescribed by other applicable law (notice to the originator in a matter submitted to the State Office of Administrative

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Hearings for an adjudicative hearing will be performed in accordance with 1 Tex. Admin. Code §155.105.)

(A) Service by Email. Service by email will be made utilizing the email address the originator has designated for use with his or her NMLS account (a/k/a the “NMLS account email address” or “individual account email address”). The NMLS account email address is the same email address to which NMLS-generated notifications are sent. Service by email is complete on transmission of the email by the Department to the originator’s email service provider. The originator has an ongoing duty and a continuing obligation to monitor the email account designated as their NMLS account email address including to ensure that correspondence from the Department or system notifications from NMLS are not lost in a “spam” or similar folder, or undelivered due to intervention by a “spam filter” or similar service. An originator is deemed to have constructive notice of any email correspondence or NMLS system notifications sent to the email address he or she has designated as his or her NMLS account email address.

(B) Service by Mail. Service by mail is complete on deposit of the document, postpaid and properly addressed, in the mail or with a commercial delivery service. If service is made on the originator by mail and the document communicates a deadline by or a time during which the originator must perform some act, such deadline or time period for action is extended by three days. However, if service was made by another method prescribed by this subsection, such deadline or time period will be calculated based on the earliest possible deadline or shortest applicable time period.

{{Existing §81.108 will be repealed and replaced with new §81.108}}

~~[§81.108. Background.~~

~~(a) In connection with each application for an originator's license, the applicant shall provide authorization and fingerprints as prescribed by the Nationwide Mortgage Licensing System and Registry necessary to conduct a criminal background history check through the Federal Bureau of Investigation.~~

~~(b) In connection with each application for an originator's license, the Commissioner may conduct a criminal background history check through the Texas Department of Public Safety.~~

~~(c) In connection with each application for the issuance of an originator's license, the applicant shall provide authorization for the Nationwide Mortgage Licensing System and Registry and the Commissioner to obtain an independent credit report from a consumer reporting agency.~~

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~~(d) In connection with each application for the issuance of an originator's license, the applicant shall provide to the Commissioner and the Nationwide Mortgage Licensing System and Registry information related to any administrative, civil, or criminal findings by a governmental jurisdiction.]~~

§81.108. Background Checks.

(a) NMLS Background Check; Fingerprints Required. An individual applying for an originator's license must provide authorization and fingerprints as prescribed by NMLS in order to conduct a criminal background history check through the Federal Bureau of Investigation.

(b) Background Checks by the Commissioner. Pursuant to Tex. Fin. Code §157.0132 and Tex. Gov't Code §411.1385, the Commissioner is authorized to separately conduct a criminal background history check through the Texas Department of Public Safety (DPS) as determined in the sole discretion of the Commissioner, and may require the applicant to provide fingerprints in order to conduct a fingerprint-based criminal background history check administered by DPS and to pay any applicable fees to DPS or its designated third-party fingerprint processor.

(c) NMLS Credit Check. An individual applying for an originator's license must provide authorization in the NMLS system for the Department to obtain a copy of the applicant's credit report concerning the applicant's credit history from a credit reporting agency (credit bureau).

(d) Supplemental Information. An individual applying for an originator's license must provide the Department and NMLS information related to any administrative, civil, or criminal findings by a governmental jurisdiction.

{{Existing §81.109 will be repealed and replaced with new §81.106}}

[§81.109. Pre-licensing Education.

~~An individual must retake the pre-licensing education requirements prescribed by the S.A.F.E. Mortgage Licensing Act if the individual:~~

~~(1) fails to acquire a valid residential mortgage loan originator license or federal registration within five years from the date of completing the pre-licensing education requirements prescribed by the S.A.F.E. Mortgage Licensing Act; or~~

~~(2) has obtained a residential mortgage loan originator license or federal registration but did not maintain an active license or federal registration for five consecutive years.]~~

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§81.109. Procedures for Review of Background Checks.

(a) Purpose and Applicability. This section establishes procedures utilized by the Commissioner and Department staff in performing background checks and reviewing an individual's criminal background and credit history to determine his or her fitness and eligibility for licensure in accordance with Tex. Fin. Code §157.0132.

(b) Supporting Information/Documentation for Criminal Background Check. In order to facilitate his or her review by the Department, an individual with a criminal history seeking to be licensed by the Department, when requested by the Department, must provide the following in support of his or her application for each conviction or other criminal proceeding identified by Department staff:

(1) a detailed explanation, in writing, of the events and circumstances for each conviction or other criminal proceeding required to be self-disclosed in his or her application, signed and dated by the individual seeking licensure; and

(2) copies of court records or other documentation reflecting:

(A) the nature of the criminal offense (including the statutory provisions violated, and the severity or classification of the offense);

(B) the individual's plea (including any terms or other arrangements for the plea);

(C) the conviction (judgment or court order);

(D) the sentence imposed;

(E) any probation or community supervision imposed (including evidence of compliance); and

(F) any other action in the proceeding causing final disposition of the case to be deferred.

(c) Supporting Information/Documentation for Credit History Check. In order to facilitate his or her review by the Department, an individual seeking to be licensed by the Department, when requested by the Department, must provide the following for each financial disclosure made in his or her application for licensure and each credit account on his or her credit report identified by Department staff:

(1) a detailed explanation, in writing, of the background and circumstances surrounding each financial disclosure made or credit account identified, signed and dated by the individual seeking licensure;

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(2) if a bankruptcy proceeding is disclosed, a copy of the order of discharge from such proceeding, or if the proceeding is ongoing, the current bankruptcy petition, together with the financial schedules filed in the proceeding;

(3) if a judgment or lien is disclosed, a copy of such judgment or lien filing;

(4) if delinquent child support is disclosed, a copy of the most recent statement of account or other documentation reflecting the current amount due, and if the individual is in a payment plan or has otherwise entered into terms for repayment, a copy of such plan or terms;

(d) Effect of Providing Supporting Documentation. By providing documentation to the Department in accordance with subsections (b) and (c) of this section, the individual certifies that such documents are true and correct copies of documents issued by the person that originally created the document. By providing such supporting documentation, the individual consents to such documentation being admissible at an adjudicative hearing if the Commissioner later seeks to deny the individual's application for licensure resulting in a contested case, and the individual waives any objections concerning the admissibility of such documentation into the administrative record at such adjudicative hearing.

(e) Certified Documents. Notwithstanding subsection (d) of this section, an individual seeking to be licensed by the Department must obtain and provide the Department with certified or exemplified copies of any documents described in subsections (b) and (c) of this section upon written request by Department staff.

{{Existing §81.110 will be repealed and replaced with new §81.102}}

~~§81.110. Licensing of Military Service Members, Military Veterans and Military Spouses.~~

~~(a) Purpose . The purpose of this section is to specify residential mortgage loan originator licensing requirements for military service members, military veterans, and military spouses, in accordance with Texas Occupations Code, Chapter 55.~~

~~(b) Definitions. In this section, the terms "military service member," "military spouse," and "military veteran" have the meanings provided by Texas Occupations Code, §55.001.~~

~~(c) Late renewal. As provided by Texas Occupations Code, §55.002, an individual is exempt from any increased fee or other penalty for failing to renew a residential mortgage loan originator license in a timely manner, if the individual establishes to the satisfaction~~

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~~of the department that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.~~

~~(d) Expedited license procedure. As provided by Texas Occupations Code, §55.004 and §55.005, the department will process a license application as soon as practicable and issue a license to a qualifying applicant who is a military service member, military veteran, or military spouse, if the applicant:~~

~~(1) holds a current license in another jurisdiction as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117; or~~

~~(2) held a residential mortgage loan originator license in Texas within the five years preceding the application date.~~

~~(e) Authorization for military spouse.~~

~~(1) As provided by Texas Occupations Code, §55.0041, a military spouse may engage in business as a residential mortgage loan originator if the spouse is currently licensed in good standing in another jurisdiction as a residential mortgage loan originator in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117.~~

~~(2) Before engaging in business in Texas, the military spouse must comply with the requirements described by Texas Occupations Code, §55.0041(b). If the military spouse does not obtain a residential mortgage loan originator license in Texas, then the military spouse is limited to the time period described by Texas Occupations Code, §55.0041(d).~~

~~(3) For purposes of this subsection and Texas Occupations Code, §55.0041, a residential mortgage loan originator license issued in another jurisdiction is substantially equivalent to a Texas residential mortgage loan originator license if it is issued in accordance with the S.A.F.E. Mortgage Licensing Act, 12 U.S.C. §§5101-5117. The department will verify a license issued in another jurisdiction through NMLS.~~

~~(f) As provided by Texas Occupations Code, §55.007, with respect to an applicant who is a military service member or military veteran, the department will credit verified military service, training, or education toward the licensing requirements, other than an examination requirement, for a residential mortgage loan originator license, by considering the service, training, or education as part of the applicant's employment history.]~~

§81.110. Criminal Conviction Guidelines.

(a) Purpose and Applicability. This section establishes the criteria utilized by the Commissioner and Department staff in reviewing individuals with a criminal history to

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determine their fitness to be licensed by the Department as an originator. This section implements the requirements of Tex. Occ. Code §53.025, requiring the Department to establish guidelines related to such reviews, including designating particular crimes and offenses which the Department considers to be directly related to the duties and responsibilities of acting as an originator, and that may constitute grounds for denial of licensure. The authority for denial of a license based on an individual's criminal history under the Occupations Code is in addition to and augments that arising from the Finance Code. This section also describes the Commissioner's other statutory authority arising from the Finance Code for denial of licensure based on an individual's criminal history, including outlining certain offenses deemed by this section to be grounds for denial under the Finance Code.

(b) Schedule of Criminal Offenses Determined to be Directly Related. The Finance Commission and the Department's Commissioner has determined that the criminal offenses in the following schedule are directly related to the duties and responsibilities of an individual licensed by the Department to act as an originator. The schedule includes those criminal offenses most likely to be encountered by the Department and is made from the perspective of the criminal laws of the State of Texas and of the United States federal government. However, the schedule is not an exhaustive review of all offenses, and does not limit the Department from considering a criminal offense not specifically listed in the schedule. The schedule should be construed to include the substantially similar or functionally equivalent crime of any state or territory of the United States, violations of the Uniform Code of Military Justice, or crimes of a foreign country or governmental subdivision thereof. In determining whether a criminal offense of another jurisdiction is substantially similar and/or functionally equivalent, an inquiry will be made comparing the subject offense with an offense on the schedule to determine whether the subject offense has similar elements, including intent and classification of punishment, and whether the crime would have been punishable had the acts been committed in Texas.

[Figure: 7 TAC §81.109(b)]

(c) Duties and Responsibilities of a Residential Mortgage Loan Originator. An originator acts as the intermediary between the consumer seeking a residential mortgage loan and the underwriter who ultimately determines whether the consumer qualifies for the loan. The originator may assist the consumer in reviewing their income, expenses and credit worthiness to determine whether they will qualify for a loan, and on what terms they might qualify. The originator may assist the consumer in making the loan application, and sometimes directs the consumer to present his or her financial information in the manner to which the lender or underwriter is accustomed. A residential mortgage loan often takes

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place in the context of a real estate transaction, and as a result, an originator sometimes advises the consumer of his or her financial ability to purchase certain properties, including securing prequalification documents to establish their purchasing power while shopping in the marketplace. Once the loan has entered the underwriting process, the originator may assist the consumer in resolving any outstanding conditions of the underwriter to qualify for the loan and obtain approval, including addressing items of concern on a consumer's credit report, immigration/residency status, available cash-on-hand for the transaction, and income which may not be readily established by documentary evidence, such as that of an independent contractor. The originator communicates to the consumer the ever-changing loan terms as prevailing rates and terms in the marketplace fluctuate, and is often a key figure in advising the consumer of when and how they may "lock" the loan in advance of closing and solidify the loan terms. The originator may serve as communications liaison between the consumer and various parties to the transaction, including the lender, the underwriting department or a third-party underwriter, real estate brokers and sales agents, appraisers, insurance providers, closing/settlement agents, and representatives of various taxing authorities. In performing his or her services, an originator is entrusted with, and has access to, sensitive information of the consumer, including his or her social security number, date of birth, immigration/residency status, and all the personal financial details of the consumer including employment, income, assets, and expenses.

(d) Categories of Offenses Related to Residential Mortgage Loan Origination. The Finance Commission and the Department's Commissioner has determined the following categories of criminal offenses are directly related to the duties and responsibilities of acting as an originator:

(1) criminal offenses involving fraud, falsification, dishonesty, deception, and breach of trust.

(2) criminal offenses involving theft or embezzlement; and

(3) criminal offenses involving intoxication by drugs or alcohol.

(e) Factors. Unless the individual is ineligible for licensure by operation of law as provided by subsection (j) of this section, in determining whether a criminal offense is directly related to the duties and responsibilities of an individual licensed by the Department to act as an originator, the Commissioner will consider:

(1) the nature and seriousness of the crime;

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(2) the relationship of the crime to the purposes for requiring a license to act as an originator;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the individual had previously been involved;

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the license sought by the individual; and

(5) any correlation between the elements of the crime and the duties and responsibilities of an individual licensed by the Department to act as an originator

(f) In addition to the factors listed in subsection (e) of this section, the Commissioner, in determining whether an individual who has been convicted of or received deferred adjudication for a crime is unfit and should be disqualified from being licensed by the Department, will consider:

(1) the extent and nature of the individual's past criminal activity;

(2) the age of the individual when the crime was committed;

(3) the amount of time that has elapsed since the individual's last criminal activity;

(4) the amount of time that has elapsed since the individual's release from incarceration;

(5) the conduct and work activity of the individual before and after the criminal activity;

(6) evidence of the individual's rehabilitation or rehabilitative efforts while incarcerated or after release;

(7) letters of recommendation, signed and dated, by a current employer, if the individual is employed, or a previous employer, stating that the employer has specific and complete knowledge of the individual's criminal history and stating the reasons that the employer is recommending that the individual be considered fit to be licensed by the Department, and is not a threat to the public's health, safety and welfare; and

(8) any other letters of recommendation, signed and dated, by an individual familiar with the applicant and their character and fitness, with specific and complete knowledge of the individual's criminal history, and able to offer competent information about the nature and extent of the applicant's rehabilitative efforts.

(g) Convictions Considered. The determination of whether a criminal proceeding is considered to have resulted in a conviction for purposes of this section will be made in

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accordance with Tex. Fin. Code §157.0131, which states that an individual is considered to have been convicted of a criminal offense if:

- (1) a sentence is imposed on the individual;
- (2) the individual received probation or community supervision, including deferred adjudication or community service; or
- (3) the court deferred final disposition of the individual's case.

(h) Consideration of Disciplinary Actions. Unless the individual is ineligible for licensure by operation of law as provided by subsection (j) of this section, in addition to the individual's criminal convictions, the Commissioner may consider the individual's past history of disciplinary actions with the Department, or from another regulatory body or official of another jurisdiction regulating originators or financial services, which may serve as separate grounds for license ineligibility, or as an aggravating factor in favor of disqualifying the individual for licensure.

(i) Consideration of Financial Responsibility, Character and General Fitness. Unless the individual is ineligible for licensure by operation of law as provided by subsection (j) of this section, in addition to the individual's criminal convictions, the Commissioner may consider the individual's financial responsibility, and other evidence of character and general fitness, which may serve as separate grounds for license ineligibility, or as an aggravating factor in favor of disqualifying an individual with a criminal history for licensure. The conviction of an offense having a nexus to the duties and responsibilities of an individual licensed by the Department as an originator is indicative of a failure to demonstrate requisite character and general fitness to command the confidence of the community, in accordance with Tex. Fin. Code §180.055(a)(3), and requisite honesty, trustworthiness and integrity in accordance with Tex. Fin. Code §157.012(c).

(j) Ineligibility by Operation of Law. The following individuals are ineligible for licensure as an originator by operation of law due to their criminal history:

- (1) an individual who, within the seven years preceding the date of the application, has been convicted of, or pled guilty or nolo contendere to a felony in a court of this state, another state or territory of the United States, a federal court of the United States, or other foreign, or military court, in accordance with Tex. Fin. Code §180.055(a); and
- (2) an individual who, at any time, has been convicted of, or pled guilty or nolo contendere to a felony offense involving an act of fraud, dishonesty, breach of trust, or money laundering, in accordance with Tex. Fin. Code §180.055(a).

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(k) Offenses Deemed to Involve Fraud or Dishonesty. Any felony criminal offense listed in the schedule contained in subsection (b) of this section which has a nexus to residential mortgage loan origination arising from subsection (d)(1) or (2) of this section (concerning crimes involving fraud, falsification, dishonesty, deception and breach of trust, and theft or embezzlement, respectively) is deemed to constitute a crime involving an act of fraud, dishonesty, breach of trust, or money laundering for purposes of Tex. Fin. Code § 180.055(a), and will result in ineligibility by operation of law as provided by subsection (j) of this section.

§81.111. Request for Criminal History Eligibility Determination.

(a) Purpose and Applicability. This section establishes the procedures by which an individual may seek a preliminary review of their eligibility to be licensed by the Department with respect to their criminal history prior to formally applying with the Department for licensure as authorized by Occupations Code Chapter 53. Pursuant to Tex. Occ. Code §53.102, the evaluation contemplated by this section is available to an individual who has reason to believe they are ineligible to be licensed by the Department due to a conviction or deferred adjudication for a felony or misdemeanor offense, and who is enrolled or is planning to enroll in an educational program that prepares an individual to be licensed by the Department. The Commissioner will not offer advisory opinions concerning criminal convictions or sentences that have not actually occurred.

(b) Request for Preliminary Eligibility Determination; Supporting Documentation. The request must be made on the form prescribed by the Commissioner and published on the Department's website. The fee to make a request under this section is \$75.

(d) Review of Request for Preliminary Evaluation. A request made under this section will be reviewed by the Commissioner and Department staff to determine the requestor's eligibility utilizing the same procedures for review of an individual's criminal history when making an application for licensure, and is subject to the Department's criminal conviction guidelines set forth in §81.109 of this title (relating to Criminal Conviction Guidelines). As a result, the requestor, in making the request, must list all offenses that actually resulted in a criminal conviction, or that otherwise constitute a criminal conviction for purposes of Tex. Fin. Code. §157.0131 and §81.109 of this title (relating to Criminal Conviction Guidelines). The requestor's incarcerated status that might render the individual ineligible for licensure will be disregarded, however, the Department will consider the implications of the requestor's anticipated release from incarceration.

(e) Determination of Eligibility. Within 90 days of receipt of the fully-completed request, the Department will notify the requestor of their eligibility to receive a license issued under Finance Code Chapters 157 and 180.

(f) Effect of Determination. In the absence of new evidence known but not disclosed by the requestor, or not reasonably available to the Department in consideration of the

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disclosures made by the requestor, the Commissioner's decision regarding eligibility of the requestor concerning their criminal history will be determinative for purposes of reviewing a subsequent application for licensure from the requestor. However, the Commissioner's decision regarding eligibility will not be determinative to the extent the request for preliminary eligibility determination contained fraudulent or misleading information or supporting documentation or otherwise failed to list a criminal conviction of the requestor that was not otherwise discovered by the Department in investigating the request, regardless of whether or not the requestor was aware of the conviction at the time of the request, and including subsequent conviction(s) received by the requestor. A decision that the requestor is eligible will not be determinative if the requestor is determined to be ineligible for licensure by operation of law as provided by Tex. Fin. Code §180.055(a) and §81.110 of this title (relating to Criminal Conviction Guidelines).

Figure: 7 TAC §81.110(b)

Schedule of Criminal Offenses Determined to be Directly Related to Residential Mortgage Loan Origination

State Offenses:

Offense	Statutory Reference	Nexus to Residential Mortgage Loan Origination (reference to Department Rule §81.110(d))
Abuse of Official Capacity	Tex. Pen. Code §39.02	(1), (2)
Acceptance of Gift/Honorarium by Public Servant	Tex. Pen. Code §§36.07, 36.08	(1)
Agreement to Abduct Child	Tex. Pen. Code §25.031	(2)
Burglary, in furtherance of theft; Burglary of Vehicle	Tex. Pen. Code §§30.02, 30.04	(2)
Breach of Computer Security	Tex. Pen. Code §33.02	(1), (2)
Bribery	Tex. Pen. Code §36.02	(1)
Bribery, Commercial	Tex. Pen. Code §32.43	(1)
Coercion of Public Servant or Voter	Tex. Pen. Code §36.03	(1)
Counterfeiting Trademark	Tex. Pen. Code §32.23	(1)
Credit Card or Debit Card Abuse	Tex. Pen. Code §32.31	(1), (2)
Credit Card Transaction Record Laundering	Tex. Pen. Code §32.35	(1)
Criminal Attempt, Solicitation, or Conspiracy	Tex. Pen. Code §§15.01, 15.02, 15.03, 15.031	See offense attempted, solicited or conspired
Criminal Simulation	Tex. Pen. Code §32.22	(1)
Criminally Negligent Homicide, arising from intoxication	Tex. Pen. Code §19.05	(3)
Deceptive Business Practices	Tex. Pen. Code §32.42	(1)
Driving/Boating/Flying while Intoxicated	Tex. Pen. Code §§49.04, 49.05, 49.06, 49.09	(3)
Driving while Intoxicated with Child Passenger	Tex. Pen. Code §49.045	(3)
Drug Offenses	Tex. Health & Safety Code Chs. 481, 482, 483	(3)

Figure: 7 TAC §81.110(b)

Escape from Custody	Tex. Pen. Code §38.06	(1)
Evading Arrest or Detention	Tex. Pen. Code §38.04	(1)
Exploitation of Child/Elderly/Disabled	Tex. Pen. Code §32.53	(1), (2)
False Report of Emergency	Tex. Pen. Code §42.06	(1)
False Report to Law Enforcement	Tex. Pen. Code §37.08	(1)
False Statement to Obtain Property, Credit or Services	Tex. Pen. Code §32.32	(1), (2)
Forgery	Tex. Pen. Code §32.21	(1), (2)
Fraudulent Court Record	Tex. Pen. Code §37.13	(1)
Fraudulent Destruction, Removal, or Concealment of Writing	Tex. Pen. Code §32.47	(1)
Fraudulent Filing of Financing Statement	Tex. Pen. Code §37.101	(1)
Fraudulent or Fictitious Military Record	Tex. Pen. Code §32.54	(1)
Fraudulent Use or Possession of Identifying Information	Tex. Pen. Code §32.51	(1)
Fraudulent, Substandard, or Fictitious Degree	Tex. Pen. Code §32.52	(1)
Fraudulent Transfer of a Motor Vehicle	Tex. Pen. Code §32.34	(1)
Hindering Apprehension or Prosecution	Tex. Pen. Code §38.05	(1)
Hindering Secured Creditors	Tex. Pen. Code §32.33	(1), (2)
Impersonating Lawyer	Tex. Pen. Code §38.122	(1)
Impersonating Public Servant	Tex. Pen. Code §37.11	(1)
Impersonating Peace Officer	Tex. Pen. Code §37.12	(1)
Improper Gift to Public Servant	Tex. Pen. Code §36.09	(1)
Improper Influence	Tex. Pen. Code §36.04	(1)
Insurance Fraud	Tex. Pen. Code §35.02	(1)
Intoxication Assault	Tex. Pen. Code §49.07	(3)
Intoxication Manslaughter	Tex. Pen. Code §49.08	(3)
Manslaughter, arising from intoxication	Tex. Pen. Code §19.04	(3)
Medicaid Fraud	Tex. Pen. Code §35A.02	(1), (2)
Misapplication of Fiduciary Property or Property of Financial Institution	Tex. Pen. Code §32.45	(1), (2)
Misuse of Official Information	Tex. Pen. Code §39.06	(1)

Figure: 7 TAC §81.110(b)

Money Laundering	Tex. Pen. Code §34.02	(1), (2)
Official Oppression by Public Servant	Tex. Pen. Code §39.03	(1)
Online Impersonation	Tex. Pen. Code §33.07	(1)
Organized Criminal Activity	Tex. Pen. Code §71.02	See underlying offense
Perjury; Aggravated Perjury	Tex. Pen. Code §§37.02, 37.03	(1)
Prohibited Substances and Items in Correctional Facility	Tex. Pen. Code §38.11	(1), (3)
Robbery; Aggravated Robbery	Tex. Pen. Code §§29.02, 29.03	(2)
Securing Execution of Document by Deception	Tex. Pen. Code §32.46	(1), (2)
Simulating Legal Process	Tex. Pen. Code §32.48	(1)
Smuggling of Persons; Continuous Smuggling of Persons	Tex. Pen. Code §§20.05, 20.06	(1)
Stealing or Receiving Stolen Check	Tex. Pen. Code §32.24	(1), (2)
Tampering of Electronic Data	Tex. Pen. Code §33.023	(1)
Tampering with Consumer Product	Tex. Pen. Code §22.09	(1)
Tampering with Governmental Record	Tex. Pen. Code §37.10	(1)
Tampering with Identification Numbers	Tex. Pen. Code §31.11	(1)
Tampering with or Fabricating Physical Evidence	Tex. Pen. Code §37.09	(1)
Tampering with Witness	Tex. Pen. Code §36.05	(1)
Theft	Tex. Pen. Code §31.03	(2)
Theft – Organized Retail Theft	Tex. Pen. Code §31.16	(2)
Theft of Cargo	Tex. Pen. Code §31.18	(2)
Theft of Petroleum Product	Tex. Pen. Code §31.19	(2)
Theft of Service	Tex. Pen. Code §31.04	(1), (2)
Trafficking of Persons; Continuous Trafficking of Persons	Tex. Pen. Code §§20A.02, 20A.03	(1)
Unauthorized Absence from Corrections Facility	Tex. Pen. Code §38.113	(1)
Unauthorized Acquisition or Transfer of Financial Information	Tex. Pen. Code §31.17	(1), (2)
Unauthorized Use of a Vehicle	Tex. Pen. Code §31.07	(1), (2)
Unlawful Access to Stored Communications	Tex. Pen. Code §16.04	(1), (2)

Figure: 7 TAC §81.110(b)

Unlawful Interception, Use, or Disclosure of Wire, Oral or Electronic Communications	Tex. Pen. Code §16.02	(1)
Unlawful Use of Criminal Instrument or Mechanical Security Device	Tex. Pen. Code §16.01	(1)
Unlawful Use of Pen Register or Trap and Trace Device	Tex. Pen. Code §16.03	(1)

Federal Offenses:

Offense	Statutory Reference	Nexus to Residential Mortgage Loan Origination (reference to Department Rule §81.110(d))
Bankruptcy Fraud	18 U.S.C. §§151-158	(1)
Bribery, Graft and Conflicts of Interest	18 U.S.C. §§201-227	(1)
Conspiracy to Commit Offense or Defraud	18 U.S.C. §§371-373	(1); See also conspired offense, if applicable
Counterfeiting and Forgery	18 U.S.C. §§470-514	(1)
Customs Fraud	18 U.S.C. §§541-555	(1)
Drug Offenses	21 U.S.C. §§841-865	(3)
False Claims Affecting Government	18 U.S.C. §§281-293	(1)
Fraud, False Statements, Identity Theft	18 U.S.C. §§1001-1070	(1)
Mail Fraud, and other fraud offenses (Wire Fraud, bank fraud, health care fraud, securities/investment fraud)	18 U.S.C. §§1341-1351; 15 U.S.C. §§ 78ff(a), 78j, 77x, 80b-17, 80a-48, 77yyy	(1), (2)
Obstruction of Justice / Tampering with Government Records	18 U.S.C. §§1501-1521; 2071-2076	(1)
Passport/Visa Fraud	18 U.S.C. §§1541-1547	(1)
Perjury	18 U.S.C. §§1621-1623	(1)
Racketeering/RICO Offenses	18 U.S.C. §§1951-1990	(1), (2)
Robbery and Burglary	18 U.S.C. §§2111-2119	(2)

Figure: 7 TAC §81.110(b)

Tax Fraud	26 U.S.C. §§7201-7230	(1), (2)
Theft, Embezzlement	18 U.S.C. §§641-670	(2)