

FINANCE CODE

TITLE 2. FINANCIAL REGULATORY AGENCIES

CHAPTER 13. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

Sec. 13.001. DEFINITIONS. The definitions provided by Section 31.002 apply to this chapter.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 13.0015. NAME CHANGES. (a) The Savings and Loan Department is renamed the Department of Savings and Mortgage Lending and the savings and loan commissioner is renamed the savings and mortgage lending commissioner.

(b) A reference in a statute or rule to the Savings and Loan Department means the Department of Savings and Mortgage Lending.

(c) A reference in a statute or rule to the savings and loan commissioner means the savings and mortgage lending commissioner.
Added by Acts 2005, 79th Leg., Ch. 1018 (H.B. 955), Sec. 3.02, eff. September 1, 2005.

Sec. 13.002. SAVINGS AND MORTGAGE LENDING COMMISSIONER.

(a) The savings and mortgage lending commissioner is the chief executive officer of the Department of Savings and Mortgage Lending. The finance commission shall appoint the savings and mortgage lending commissioner. The savings and mortgage lending commissioner serves at the will of the finance commission and is subject to the finance commission's orders and direction.

(b) The savings and mortgage lending commissioner must have not less than five years' experience in the executive management of a savings association or savings bank or in savings association or savings bank supervision during the 10 years preceding the commissioner's appointment.

(c) The finance commission shall set the compensation of the savings and mortgage lending commissioner. The compensation shall be paid from money of the Department of Savings and Mortgage Lending.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 867, Sec. 15, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.013, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 464 (S.B. 1008), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 367 (H.B. 3536), Sec. 2, eff. September 1, 2015.

Sec. 13.003. DEPUTY COMMISSIONERS. (a) The savings and mortgage lending commissioner shall appoint one or more deputy savings and mortgage lending commissioners.

(b) One deputy savings and mortgage lending commissioner must have the qualifications required of the savings and mortgage lending commissioner. During the savings and mortgage lending commissioner's absence or inability to serve, that deputy savings and mortgage lending commissioner has the powers and shall perform the duties of the savings and mortgage lending commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.014, eff. September 1, 2007.

Sec. 13.004. EXAMINERS. The savings and mortgage lending commissioner shall appoint savings association and savings bank examiners.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.015, eff. September 1, 2007.

Sec. 13.006. OATH OF OFFICE. Before assuming the duties of office, each deputy savings and mortgage lending commissioner, examiner, assistant examiner, conservator, supervisor, and special agent and each other officer or employee specified by the savings and mortgage lending commissioner must take an oath of office to discharge faithfully the duties assigned and uphold the constitution and laws of this state and the United States.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.017, eff. September 1, 2007.

Sec. 13.007. GENERAL POWERS AND DUTIES OF COMMISSIONER. The savings and mortgage lending commissioner shall:

(1) supervise and regulate the organization, operation, and liquidation of state savings associations, as provided by Subtitle B, Title 3, and state savings banks, as provided by Subtitle C, Title 3; and

(2) enforce those subtitles personally or through a deputy savings and mortgage lending commissioner, examiner, supervisor, conservator, or other agent.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.018, eff. September 1, 2007.

Sec. 13.009. CONFLICTS OF LAW. If this chapter conflicts with Subtitle B or C, Title 3, this chapter controls.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 13.010. CONFLICTS OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a Department of Savings and Mortgage Lending employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in a field regulated by the

Department of Savings and Mortgage Lending; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in a field regulated by the Department of Savings and Mortgage Lending.

(c) A person may not act as the general counsel to the Department of Savings and Mortgage Lending if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Department of Savings and Mortgage Lending.

(d) Before the 11th day after the date on which an employee begins employment with the Department of Savings and Mortgage Lending, the employee shall read the conflict-of-interest statutes applicable to employees of the Department of Savings and Mortgage Lending and sign a notarized affidavit stating that the employee has read those statutes.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 337, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.020, eff. September 1, 2007.

Sec. 13.011. CONSUMER INFORMATION AND COMPLAINTS.

(a) The Department of Savings and Mortgage Lending shall maintain a system to promptly and efficiently act on complaints filed with that department. The Department of Savings and Mortgage Lending shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The Department of Savings and Mortgage Lending shall make information available describing its procedures for complaint investigation and resolution.

(c) The Department of Savings and Mortgage Lending shall periodically notify the complaint parties of the status of the complaint until final disposition.

(d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 47(1), eff. September 1, 2019.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 47(1), eff. September 1, 2019.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 337, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.021, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 8, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 47(1), eff. September 1, 2019.

Sec. 13.012. SUNSET PROVISION. The office of savings and mortgage lending commissioner and the Department of Savings and Mortgage Lending are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office and department are abolished September 1, 2031. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 337, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.022, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 2.04, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 3.04, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 9, eff. September 1, 2019.

Sec. 13.013. STANDARDS OF CONDUCT. The savings and mortgage lending commissioner or the savings and mortgage lending commissioner's designee shall provide to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2001, 77th Leg., ch. 337, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.023, eff. September 1, 2007.

Sec. 13.014. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) The savings and mortgage lending commissioner or the savings and mortgage lending commissioner's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the Department of Savings and Mortgage Lending to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the Department of Savings and Mortgage Lending personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Added by Acts 2001, 77th Leg., ch. 337, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.024, eff. September 1, 2007.

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

F, Chapter 156.

(b) The savings and mortgage lending commissioner's authority under this section includes the authority to enforce disciplinary action as provided by Chapters 156 and 157 for a person's failure to comply with the applicable provisions of those chapters relating to the recovery fund and with applicable rules adopted under those chapters.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 2, eff. September 1, 2011.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 929 (H.B. 3617), Sec. 1, eff. September 1, 2021.

Sec. 13.017. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION.

(a) The finance commission by rule shall develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of rules by the finance commission applicable to the Department of Savings and Mortgage Lending; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the Department of Savings and Mortgage Lending's jurisdiction.

(b) The procedures applicable to the Department of Savings and Mortgage Lending relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The Department of Savings and Mortgage Lending shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 10, eff. September 1, 2019.

Sec. 13.018. ADVISORY COMMITTEES. (a) The savings and mortgage lending commissioner may appoint advisory committees to assist the Department of Savings and Mortgage Lending and savings and mortgage lending commissioner in performing their duties.

(b) The savings and mortgage lending commissioner shall specify each committee's purpose, powers, and duties and shall require each committee to report to the savings and mortgage lending commissioner or Department of Savings and Mortgage Lending in the manner specified by the savings and mortgage lending commissioner concerning the committee's activities and the results of its work.

Added by Acts 2019, 86th Leg., R.S., Ch. 20 (S.B. 614), Sec. 10, eff. September 1, 2019.