

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE E. OTHER FINANCIAL BUSINESSES

CHAPTER 180. RESIDENTIAL MORTGAGE LOAN ORIGINATORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 180.001. SHORT TITLE. This chapter may be cited as the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.002. DEFINITIONS. In this chapter:

(1) "Clerical or support duties," following the receipt of an application from a consumer, includes:

(A) the receipt, collection, distribution, and analysis of information related to the processing or underwriting of a residential mortgage loan; and

(B) communication with a consumer to obtain information necessary to process or underwrite a loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling the consumer about residential mortgage loan rates or terms.

(2) "Credit union" means a state or federal credit union operating in this state.

(3) "Credit union subsidiary organization" means an agency, association, or company wholly or partly owned by a credit union that is designed primarily to serve or otherwise assist credit union operations. The term includes a credit union service organization authorized by:

(A) Section 124.351(a)(1);

(B) Credit Union Commission rule; or

(C) Part 712 of the National Credit Union Administration's Rules and Regulations.

(4) "Depository institution" has the meaning assigned by Section 3, Federal Deposit Insurance Act (12 U.S.C. Section

1813). The term includes a credit union but does not include a credit union subsidiary organization.

(5) "Dwelling" has the meaning assigned by Section 103(v) of the Truth in Lending Act (15 U.S.C. Section 1602(v)).

(6) "Federal banking agency" means:

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Office of Thrift Supervision;

(D) the National Credit Union Administration;

(E) the Federal Deposit Insurance Corporation;

or

(F) the successor of any of those agencies.

(7) "Finance commission" means the Finance Commission of Texas.

(8) "Immediate family member" means the spouse, child, sibling, parent, grandparent, or grandchild of an individual. The term includes a stepparent, stepchild, and stepsibling and a relationship established by adoption.

(9) "Individual" means a natural person.

(10) "License" means a license issued under the laws of this state to an individual acting as or engaged in the business of a residential mortgage loan originator.

(11) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of an individual licensed as a residential mortgage loan originator or exempt from licensure under Section [180.003](#).

(12) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of state residential mortgage loan originators.

(13) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

(14) "Person" means an individual, corporation, company, limited liability company, partnership, or association.

(15) "Real estate brokerage activity" means an activity that involves offering or providing real estate brokerage services to the public, including:

(A) acting as a real estate broker or salesperson for a buyer, seller, lessor, or lessee of real property;

(B) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(C) negotiating, on a party's behalf, any provision of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than a negotiation conducted in connection with providing financing with respect to such a transaction;

(D) engaging in an activity for which a person is required to be registered or licensed by the state as a real estate broker or salesperson; and

(E) offering to engage in an activity described by Paragraphs (A) through (D) or to act in the same capacity as a person described by Paragraphs (A) through (D).

(16) "Registered mortgage loan originator" means an individual who:

(A) is a residential mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is:

(a) owned and controlled by a depository institution; and

(b) regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(17) "Regulatory official" means:

(A) with respect to Subtitles A, F, and G of this

title, the banking commissioner of Texas;

(B) with respect to Chapters 156 and 157, the savings and mortgage lending commissioner; and

(C) with respect to Chapters 342, 347, 348, and 351, the consumer credit commissioner.

(18) "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate.

(19) "Residential mortgage loan originator":

(A) means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates the terms of a residential mortgage loan; and

(B) does not include:

(i) an individual who performs solely administrative or clerical tasks on behalf of an individual licensed as a residential mortgage loan originator or exempt from licensure under Section 180.003, except as otherwise provided by Section 180.051;

(ii) an individual who performs only real estate brokerage activities and is licensed or registered by the state as a real estate broker or salesperson, unless the individual is compensated by:

(a) a lender or other residential mortgage loan originator; or

(b) an agent of a lender or other residential mortgage loan originator;

(iii) an individual licensed under Chapter 1201, Occupations Code, unless the individual is directly compensated for arranging financing for activities regulated under that chapter by:

(a) a lender or other residential mortgage loan originator; or

(b) an agent of a lender or other

residential mortgage loan originator;

(iv) an individual who receives the same benefits from a financed transaction as the individual would receive if the transaction were a cash transaction; or

(v) an individual who is involved solely in providing extensions of credit relating to timeshare plans, as defined by 11 U.S.C. Section 101(53D).

(20) "Residential real estate" means real property located in this state on which a dwelling is constructed or intended to be constructed.

(21) "Rulemaking authority" means the finance commission.

(22) "S.A.F.E. Mortgage Licensing Act" means the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(23) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 60, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 84, eff. September 1, 2013.

Sec. 180.003. EXEMPTION.

(a) The following persons are exempt from this chapter:

(1) a registered mortgage loan originator when acting for an entity described by Section 180.002(16)(A)(i), (ii), or (iii);

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

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

attorney:

(A) takes a residential mortgage loan application; and

(B) offers or negotiates the terms of a residential mortgage loan;

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

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

(6) an owner of a dwelling who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the property for all or part of the purchase price of the dwelling against which the mortgage or security interest is secured.

(b) An individual is exempt from this chapter, other than Section [180.171](#), if the individual:

(1) in any 12-consecutive-month period originates five or fewer closed residential mortgage loans exclusively for a single federally chartered depository institution and the loans are closed within that period;

(2) is contractually prohibited from soliciting, processing, negotiating, or placing a residential mortgage loan with a person other than the depository institution described by Subdivision (1); and

(3) is sponsored by a life insurance company, or an affiliate of the company, authorized to engage in business in this state.

(c) The finance commission may grant an exemption from the licensing requirements of this chapter to a municipality, county, community development corporation, or public or private grant administrator to the extent the entity is administering the Texas HOME Investment Partnerships program if the commission determines that granting the exemption is not inconsistent with the intentions

of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 61, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 258 (S.B. 1203), Sec. 3, eff. September 1, 2015.

Sec. 180.004. ADMINISTRATIVE AUTHORITY; RULEMAKING. (a) A regulatory official has broad authority to administer, interpret, and enforce this chapter.

(b) The finance commission may implement rules necessary to comply with this chapter and as required to carry out the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(c) This chapter does not limit the authority of a regulatory official to take disciplinary action against a license holder for a violation of this chapter or the rules adopted by the regulatory official under this chapter. A regulatory official has broad authority to investigate, revoke a license, and inform the proper authority when fraudulent conduct or a violation of this chapter occurs.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.005. SEVERABILITY. The provisions of this chapter or applications of those provisions are severable as provided by Section 311.032(c), Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

SUBCHAPTER B. LICENSING AND REGISTRATION REQUIREMENTS

Sec. 180.051. STATE LICENSE REQUIRED; RENEWAL. (a) Unless exempted by Section 180.003, an individual may not engage in

business as a residential mortgage loan originator with respect to a dwelling located in this state unless the individual:

(1) is licensed to engage in that business under Chapter 156, 157, 342, 347, 348, or 351; and

(2) complies with the requirements of this chapter.

(b) Unless exempted by Section 180.003, a loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains the appropriate residential mortgage loan originator license and complies with the requirements of this chapter.

(c) The individual must renew the license annually to be considered licensed for purposes of this section.

(d) Notwithstanding any provision of law listed in Subsection (a)(1), the regulatory official shall provide for annual renewal of licenses for individuals seeking to engage in residential mortgage loan origination activities.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.052. ENROLLMENT OR REGISTRATION WITH NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. (a) A licensed residential mortgage loan originator must enroll with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(b) A non-federally insured credit union that employs loan originators, as defined by the S.A.F.E. Mortgage Licensing Act, shall register those employees with the Nationwide Mortgage Licensing System and Registry by furnishing the information relating to the employees' identity set forth in Section 1507(a)(2) of the S.A.F.E. Mortgage Licensing Act.

(c) Each independent contractor loan processor or underwriter licensed as a residential mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(d) The regulatory official who administers the law under which a residential mortgage loan originator is licensed shall

require the residential mortgage loan originator to be enrolled with the Nationwide Mortgage Licensing System and Registry.

(e) For purposes of implementing Subsection (d), the regulatory official may participate in the Nationwide Mortgage Licensing System and Registry.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.053. APPLICATION FORM. (a) A regulatory official shall prescribe application forms for a license as a residential mortgage loan originator.

(b) A regulatory official may change or update an application form as necessary to carry out the purposes of this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.054. CRIMINAL AND OTHER BACKGROUND CHECKS. (a) In connection with an application for a license as a residential mortgage loan originator, the applicant shall, at a minimum, furnish in the form and manner prescribed by the regulatory official and acceptable to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive the information to conduct a state, national, and international criminal background check; and

(2) personal history and experience information in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the appropriate regulatory official to obtain:

(A) an independent credit report obtained from a consumer reporting agency described by Section 603(p), Fair Credit Reporting Act (15 U.S.C. Section 1681a(p)); and

(B) information related to any administrative,

civil, or criminal findings by a governmental jurisdiction.

(b) For purposes of this section and to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of Subsection (a)(1), a regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the United States Department of Justice, any governmental agency, or any source at the regulatory official's direction.

(c) For purposes of this section and to reduce the points of contact that a regulatory official may have to maintain for purposes of Subsection (a) or (b), the regulatory official may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to and from any source as directed by the regulatory official.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.055. ISSUANCE OF LICENSE. (a) The regulatory official may not issue a residential mortgage loan originator license to an individual unless the regulatory official determines, at a minimum, that the applicant:

(1) has not had a residential mortgage loan originator license revoked in any governmental jurisdiction;

(2) has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(A) during the seven-year period preceding the date of application; or

(B) at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

(3) demonstrates financial responsibility, character, and general fitness so as to command the confidence of the community and to warrant a determination that the individual will operate honestly, fairly, and efficiently as a residential mortgage loan originator within the purposes of this chapter and any other

appropriate regulatory law of this state;

(4) provides satisfactory evidence that the applicant has completed prelicensing education courses described by Section [180.056](#);

(5) provides satisfactory evidence of having passed a written test that meets the requirements of Section [180.057](#); and

(6) has paid a recovery fund fee or obtained a surety bond as required under the appropriate state regulatory law.

(b) A revocation that has been formally vacated may not be considered a license revocation for purposes of Subsection (a)(1).

(c) A conviction for which a full pardon has been granted may not be considered a conviction for purposes of Subsection (a)(2).

(d) For purposes of Subsection (a)(3), an individual is considered not to be financially responsible if the individual has shown a lack of regard in managing the individual's own financial affairs or condition. A determination that an individual has not shown financial responsibility may include:

(1) an outstanding judgment against the individual, other than a judgment imposed solely as a result of medical expenses;

(2) an outstanding tax lien or other governmental liens and filings;

(3) a foreclosure during the three-year period preceding the date of the license application; and

(4) a pattern of seriously delinquent accounts during the three-year period preceding the date of the application.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. [10](#)), Sec. 1, eff. June 19, 2009.

Sec. 180.056. PRELICENSING EDUCATIONAL COURSES. (a) An applicant for a residential mortgage loan originator license must complete education courses that include at least the minimum number of hours and type of courses required by the S.A.F.E. Mortgage Licensing Act and the minimum number of hours of training related to lending standards for the nontraditional mortgage product marketplace required by that Act and any additional requirements

established by the regulatory official and adopted by rule of the rulemaking authority.

(b) Education courses required under this section must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry in accordance with the S.A.F.E. Mortgage Licensing Act.

(c) Nothing in this section precludes any education course approved in accordance with the S.A.F.E. Mortgage Licensing Act from being provided by:

- (1) an applicant's employer;
- (2) an entity affiliated with the applicant by an agency contract; or
- (3) a subsidiary or affiliate of the employer or entity.

(d) Education courses required under this section may be offered in a classroom, online, or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(e) An individual who has successfully completed prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the prelicensing education requirements of this section.

(f) An applicant who has previously held a residential mortgage loan originator license that meets the requirements of this chapter and other appropriate regulatory law, before being issued a new original license, must demonstrate to the appropriate regulatory official that the applicant has completed all continuing education requirements for the calendar year in which the license was last held by the applicant.

(g) If the appropriate federal regulators and the Nationwide Mortgage Licensing System and Registry establish additional educational requirements for licensed residential mortgage loan originators, the rulemaking authority shall adopt necessary rules to implement the changes to the educational requirements of this section.

(h) An individual who fails to maintain a residential mortgage loan originator license for the period of time established

by rule of the rulemaking authority must retake the prelicensing education requirements prescribed by the S.A.F.E. Mortgage Licensing Act.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. 1124), Sec. 62, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 85, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 704 (H.B. 3342), Sec. 1, eff. January 1, 2018.

Sec. 180.057. TESTING REQUIREMENTS. (a) An applicant for a residential mortgage loan originator license must pass a qualified, written test that:

(1) meets the standards and requirements established by the S.A.F.E. Mortgage Licensing Act;

(2) is developed by the Nationwide Mortgage Licensing System and Registry; and

(3) is administered by a test provider in accordance with the S.A.F.E. Mortgage Licensing Act.

(b) An individual may retake the test the number of times and within the period prescribed by the S.A.F.E. Mortgage Licensing Act.

(c) An individual who fails to maintain a residential mortgage loan originator license for at least five consecutive years must retake the test.

(d) This section does not prohibit a test provider approved in accordance with the S.A.F.E. Mortgage Licensing Act from providing a test at the location of:

(1) the license applicant's employer;

(2) a subsidiary or affiliate of the applicant's employer; or

(3) an entity with which the applicant holds an exclusive arrangement to conduct the business of a residential mortgage loan originator.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.058. RECOVERY FUND FEE OR SURETY BOND REQUIREMENT.

(a) A regulatory official may not issue a residential mortgage loan originator license unless the official determines that the applicant meets the surety bond requirement or has paid a recovery fund fee, as applicable, in accordance with the requirements of the S.A.F.E. Mortgage Licensing Act.

(b) Each regulatory official shall adopt rules requiring an individual licensed as a residential mortgage loan originator to obtain a surety bond or pay a recovery fund fee as the official determines appropriate to comply with the S.A.F.E. Mortgage Licensing Act.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.059. STANDARDS FOR LICENSE RENEWAL. A license to act as a residential mortgage loan originator may be renewed on or before its expiration date if the license holder:

(1) continues to meet the minimum requirements for license issuance;

(2) pays all required fees for the renewal of the license; and

(3) provides satisfactory evidence that the license holder has completed the continuing education requirements of Section 180.060.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.060. CONTINUING EDUCATION COURSES. (a) To renew a residential mortgage loan originator license, a license holder must annually complete the minimum number of hours and type of continuing education courses required by the S.A.F.E. Mortgage Licensing Act, the minimum requirements established by the Nationwide Mortgage Licensing System and Registry, and any additional requirements established by the regulatory official.

(b) Continuing education courses, including the course provider, must be reviewed and approved by the Nationwide Mortgage Licensing System and Registry as required by the S.A.F.E. Mortgage Licensing Act. Course credit must be granted in accordance with that Act.

(c) Nothing in this section precludes any continuing education course approved in accordance with the S.A.F.E. Mortgage Licensing Act from being provided by:

- (1) the employer of the license holder;
- (2) an entity affiliated with the license holder by an agency contract; or
- (3) a subsidiary or affiliate of the employer or entity.

(d) A person who successfully completes continuing education requirements approved by the Nationwide Mortgage Licensing System and Registry for another state shall be given credit toward completion of the continuing education requirements of this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.061. RULEMAKING AUTHORITY. A rulemaking authority may adopt rules establishing requirements as necessary for:

- (1) conducting background checks by obtaining:
 - (A) criminal history information through fingerprint or other databases;
 - (B) civil administrative records;
 - (C) credit history information; or
 - (D) any other information considered necessary by the Nationwide Mortgage Licensing System and Registry;
- (2) payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;
- (3) setting or resetting, as necessary, license renewal dates or reporting periods;
- (4) amending or surrendering a license or any other activity a regulatory official considers necessary for participation in the Nationwide Mortgage Licensing System and

Registry; and

(5) investigation and examination authority for purposes of investigating a violation or complaint arising under this chapter or for purposes of examining, reviewing, or investigating any license holder or individual subject to this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.062. CONFIDENTIALITY OF INFORMATION. (a) Except as otherwise provided by this section, a requirement under federal or state law regarding the privacy or confidentiality of information or material provided to the Nationwide Mortgage Licensing System and Registry, and a privilege arising under federal or state law, or under the rules of a federal or state court, continue to apply to the information or material after the disclosure of the information or material to the Nationwide Mortgage Licensing System and Registry. The information and material may be shared with federal and state regulatory officials with mortgage industry oversight authority without the loss of any privilege or confidentiality protections afforded by federal or state laws.

(b) Information or material subject to a privilege or confidential under Subsection (a) may not be subject to:

(1) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or this state; or

(2) subpoena, discovery, or admission into evidence in a private civil action or administrative proceeding.

(c) A person who is the subject of information or material in the Nationwide Mortgage Licensing System and Registry may waive, wholly or partly, any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to the information or material.

(d) A regulatory official may enter into an agreement or sharing arrangement with another governmental agency, the Conference of State Bank Supervisors, the American Association of

Residential Mortgage Regulators, or other associations representing appropriate governmental agencies as established by rule of the rulemaking authority or order issued by the regulatory official. A protection provided by Subsection (a) also applies to information and material shared under an agreement or sharing arrangement entered into under this subsection.

(e) To the extent of a conflict between Subsection (a) and Chapter 552, Government Code, or another state law relating to the disclosure of confidential information or information or material described by Subsection (a), Subsection (a) controls to the extent Chapter 552, Government Code, or the other law provides less confidentiality or a weaker privilege than is provided by Subsection (a).

(f) This section does not apply to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a residential mortgage loan originator that is included in the Nationwide Mortgage Licensing System and Registry for access by the public.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

SUBCHAPTER C. REPORTING AND OTHER REQUIREMENTS REGARDING NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY

Sec. 180.101. MORTGAGE CALL REPORTS. Each licensed residential mortgage loan originator shall submit to the Nationwide Mortgage Licensing System and Registry a report of condition that is in the form and contains the information required by the Nationwide Mortgage Licensing System and Registry.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.102. REPORT OF VIOLATIONS AND ENFORCEMENT ACTIONS. Subject to the confidentiality provisions of this chapter, a regulatory official shall report to the Nationwide Mortgage Licensing System and Registry on a regular basis regarding violations of, enforcement actions under, or information relevant

to this chapter or the S.A.F.E. Mortgage Licensing Act under the regulatory official's licensure, regulation, or examination of a licensed residential mortgage loan originator or person registered under the S.A.F.E. Mortgage Licensing Act.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.103. INFORMATION CHALLENGE PROCESS. The applicable rulemaking authority by rule shall establish a process by which licensed residential mortgage loan originators may dispute information submitted by the regulatory official to the Nationwide Mortgage Licensing System and Registry.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

SUBCHAPTER D. BUSINESS PRACTICES; PROHIBITED ACTS

Sec. 180.151. DISPLAY OF UNIQUE IDENTIFIER. The unique identifier of a person originating a residential mortgage loan must be clearly shown on each residential mortgage loan application form, solicitation, or advertisement, including business cards and websites, and any other document required by rule of the rulemaking authority.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.152. REPRESENTATIONS. An individual who is engaged exclusively in loan processor or underwriter activities may not represent to the public, through the use of advertising, business cards, stationery, brochures, signs, rate lists, or other means, that the individual can or will perform any of the activities of a residential mortgage loan originator unless the individual is licensed as a residential mortgage loan originator.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.153. PROHIBITED ACTS AND PRACTICES. An individual

or other person subject to regulation under this chapter may not:

(1) employ, directly or indirectly, a scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud a person;

(2) engage in an unfair or deceptive practice toward a person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the individual or other person subject to this chapter may earn a fee or commission through "best efforts" to obtain a loan even though no loan was actually obtained for the borrower;

(5) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) conduct any business regulated by this chapter without holding a license as required by this chapter;

(7) assist, aid, or abet an individual in the conduct of business without a license required by this chapter;

(8) fail to make disclosures as required by this chapter and any other applicable state or federal law, including rules or regulations under applicable state or federal law;

(9) fail to comply with this chapter or rules adopted under this chapter;

(10) fail to comply with any other state or federal law, including rules or regulations adopted under that law, applicable to a business or activity regulated by this chapter;

(11) make, in any manner, a false or deceptive statement or representation;

(12) negligently make a false statement or knowingly or wilfully make an omission of material fact in connection with:

(A) information or a report filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry; or

(B) an investigation conducted by the regulatory official or another governmental agency;

(13) make a payment, threat, or promise, directly or indirectly, to a person for purposes of influencing the person's independent judgment in connection with a residential mortgage loan, or make a payment, threat, or promise, directly or indirectly, to an appraiser of property, for purposes of influencing the appraiser's independent judgment with respect to the property's value;

(14) collect, charge, attempt to collect or charge, or use or propose an agreement purporting to collect or charge a fee prohibited by this chapter;

(15) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer; or

(16) fail to truthfully account for money belonging to a party to a residential mortgage loan transaction.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

SUBCHAPTER D-1. REQUIREMENT FOR INDIVIDUALS ORIGINATING
RESIDENTIAL MORTGAGE LOANS EXCLUSIVELY FOR CERTAIN DEPOSITORY
INSTITUTION

Sec. 180.171. ENROLLMENT WITH DEPARTMENT OF SAVINGS AND MORTGAGE LENDING. (a) This section applies only to an individual who:

(1) in any 12-consecutive-month period originates five or fewer residential mortgage loans exclusively for a single federally chartered depository institution and the loans are closed within that period;

(2) is contractually prohibited from soliciting, processing, negotiating, or placing a residential mortgage loan with a person other than the depository institution described by Subdivision (1); and

(3) is sponsored by a life insurance company, or an affiliate of the company, authorized to engage in business in this state.

(b) Before conducting business in this state with respect to

a residential mortgage loan, an individual to whom this section applies must enroll as a financial exclusive agent with the Department of Savings and Mortgage Lending until the time any registration with the Nationwide Mortgage Licensing System and Registry is required for the individual by federal law or regulation and a suitable category is created for that registration with that nationwide registry.

(c) An enrollment under this section must be renewed annually.

(d) An individual required under this section to enroll as a financial exclusive agent shall pay to the savings and mortgage lending commissioner an annual fee in an amount not to exceed \$40 as prescribed by the commissioner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 655 (S.B. [1124](#)), Sec. 63, eff. November 1, 2011.

SUBCHAPTER E. ENFORCEMENT PROVISIONS

Sec. 180.201. ENFORCEMENT AUTHORITY. To ensure the effective supervision and enforcement of this chapter, a regulatory official may:

(1) deny, suspend, revoke, condition, or decline to renew a license for a violation of this chapter, a rule adopted under this chapter, or an order or directive issued under this chapter;

(2) deny, suspend, revoke, condition, or decline to renew a license if an applicant or license holder:

(A) fails to meet the requirements of Subchapter B; or

(B) withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against a person subject to regulation under this chapter for a violation of this chapter;

(4) impose an administrative penalty on a person subject to regulation under this chapter, subject to Section [180.202](#); or

(5) issue orders or directives as provided by Section 180.203.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.202. ADMINISTRATIVE PENALTY. (a) A regulatory official may impose an administrative penalty on a residential mortgage loan originator or other person subject to regulation under this chapter, if the official, after notice and opportunity for hearing, determines that the residential mortgage loan originator or other person subject to regulation under this chapter has violated or failed to comply with:

- (1) this chapter;
- (2) a rule adopted under this chapter; or
- (3) an order issued under this chapter.

(b) The penalty may not exceed \$25,000 for each violation.

(c) The amount of the penalty shall be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the economic harm to property caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Sec. 180.203. CEASE AND DESIST ORDERS. A regulatory official may:

(1) order or direct a person subject to regulation under this chapter to cease and desist from conducting business, including issuing an immediate temporary order to cease and desist from conducting business;

(2) order or direct a person subject to regulation under this chapter to cease a violation of this chapter or a harmful activity in violation of this chapter, including issuing an

immediate temporary order to cease and desist;

(3) enter immediate temporary orders against a person subject to regulation under this chapter to cease engaging in business under a license if the regulatory official determines that the license was erroneously granted or the license holder is in violation of this chapter; and

(4) order or direct other affirmative action as the regulatory official considers necessary.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

SUBCHAPTER F. DUTIES OF REGULATORY OFFICIALS

Sec. 180.251. GENERAL DUTIES OF REGULATORY OFFICIALS.

(a) The savings and mortgage lending commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 157.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 160, Sec. 87(9), eff. September 1, 2013.

(c) The consumer credit commissioner shall administer and enforce this chapter with respect to individuals licensed under Chapter 342, 347, 348, or 351.

(d) To the extent permitted or required by this chapter and as reasonably necessary for the implementation and enforcement of the S.A.F.E. Mortgage Licensing Act, the banking commissioner of Texas may administer and enforce this chapter with respect to a person otherwise under the commissioner's jurisdiction under Subtitle A, F, or G of this title.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 86, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 160 (S.B. 1004), Sec. 87(9), eff. September 1, 2013.

Sec. 180.252. AUTHORITY OF REGULATORY OFFICIALS TO

ESTABLISH RELATIONSHIP WITH NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY; CONTRACTING AUTHORITY. To fulfill the purposes of this chapter, a regulatory official may establish a relationship with or contract with the Nationwide Mortgage Licensing System and Registry or an entity designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensed residential mortgage loan originators or other persons subject to regulation under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1104 (H.B. 10), Sec. 1, eff. June 19, 2009.