

AN ACT

relating to self-directed and semi-independent status of state financial regulatory agencies and the licensing and regulation of certain persons involved in residential mortgage lending; making an appropriation; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 156.101, Finance Code, is amended by adding Subsection (d) to read as follows:

(d) The commissioner shall participate in the Nationwide Mortgage Licensing System and Registry as provided by Chapter 180.

SECTION 2. Section 156.102, Finance Code, is amended by adding Subsections (a-1) and (b-1) to read as follows:

(a-1) The finance commission may adopt rules under this chapter 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).

(b-1) The finance commission on the commissioner's recommendation may adopt rules to promote a fair and orderly administration of the fund consistent with the purposes of Subchapter F.

SECTION 3. The heading to Section 156.104, Finance Code, is amended to read as follows:

Sec. 156.104. MORTGAGE INDUSTRY [~~BROKER~~] ADVISORY COMMITTEE.

1 SECTION 4. Sections 156.104(a), (b), and (h), Finance Code,  
2 are amended to read as follows:

3 (a) The mortgage industry [~~broker~~] advisory committee is  
4 created to advise and assist the commissioner.

5 (b) The advisory committee is composed of six members [~~to~~  
6 ~~be~~] appointed by [~~as follows~~].

7 [~~(1)~~] the commissioner. Each of the members must be  
8 [~~shall appoint four members, each of whom~~]:

9 (1) under the regulatory authority of the department  
10 [~~(A) must hold a mortgage broker license~~];

11 (2) [(B) is] actively engaged in the business of  
12 originating, brokering, or funding residential mortgage loans at  
13 the time of appointment; and

14 (3) [(C) has been] primarily engaged in the business  
15 of originating, brokering, or funding residential mortgage loans  
16 for at least two years before the member's appointment [~~, and~~

17 [~~(2) the Texas Real Estate Commission shall appoint~~  
18 ~~two members, each of whom must hold a real estate broker or~~  
19 ~~salesperson license~~].

20 (h) In addition to other powers and duties delegated to it  
21 by the commissioner, the advisory committee shall advise the  
22 commissioner with respect to:

23 (1) the proposal and adoption of rules relating to:

24 (A) the licensing of mortgage brokers and loan  
25 officers;

26 (B) the education and experience requirements  
27 for licensing mortgage brokers and loan officers; and

1 (C) conduct and ethics of mortgage brokers and  
2 loan officers;

3 ~~[(D) continuing education for licensed mortgage~~  
4 ~~brokers and loan officers and the types of courses acceptable as~~  
5 ~~continuing education courses under this chapter; and~~

6 ~~[(E) the granting or denying of an application or~~  
7 ~~request for renewal for a mortgage broker license or loan officer~~  
8 ~~license;]~~

9 (2) the form of or format for any applications or other  
10 documents under this chapter; and

11 (3) the interpretation, implementation, and  
12 enforcement of this chapter.

13 SECTION 5. Effective April 1, 2010, Section 156.104,  
14 Finance Code, is amended by adding Subsection (b-1) to read as  
15 follows:

16 (b-1) The members of the committee must include:

17 (1) three individuals licensed as residential  
18 mortgage loan originators under this chapter, one of whom must hold  
19 an active real estate broker or salesperson license issued under  
20 Chapter 1101, Occupations Code; and

21 (2) three individuals licensed as residential  
22 mortgage loan originators under Chapter 157, one of whom must hold  
23 an active real estate broker or salesperson license issued under  
24 Chapter 1101, Occupations Code.

25 SECTION 6. Section 156.202, Finance Code, is amended to  
26 read as follows:

27 Sec. 156.202. EXEMPTIONS. (a) The following persons are

1 exempt from this chapter:

2 (1) any of the following entities or an employee of any  
3 of the following entities provided the employee is acting for the  
4 benefit of the employer:

5 (A) a bank, savings bank, or savings and loan  
6 association, or a subsidiary or an affiliate of a bank, savings  
7 bank, or savings and loan association;

8 (B) a state or federal credit union, or a  
9 subsidiary, affiliate, or credit union service organization of a  
10 state or federal credit union;

11 (C) an insurance company licensed or authorized  
12 to do business in this state under the Insurance Code;

13 (D) a mortgage banker registered under Chapter  
14 157;

15 (E) an organization that qualifies for an  
16 exemption from state franchise and sales tax as a 501(c)(3)  
17 organization;

18 (F) a Farm Credit System institution; or

19 (G) a political subdivision of this state  
20 involved in affordable home ownership programs;

21 (2) an individual who makes a mortgage loan from the  
22 individual's own funds to a spouse, former spouse, or persons in the  
23 lineal line of consanguinity of the individual lending the money;

24 (3) an owner of real property who in any  
25 12-consecutive-month period makes no more than five mortgage loans  
26 to purchasers of the property for all or part of the purchase price  
27 of the real estate against which the mortgage is secured;

1 (4) an individual who:

2 (A) makes a mortgage loan from the individual's  
3 own funds;

4 (B) is not an authorized lender under Chapter  
5 342, Finance Code; and

6 (C) does not regularly engage in the business of  
7 making or brokering mortgage loans; or

8 (5) an individual who is an exclusive agent of a  
9 registered financial services company under a written agreement  
10 prohibiting the individual from soliciting, processing,  
11 negotiating, or placing a mortgage loan with a person other than the  
12 registered financial services company or an affiliate of that  
13 company.

14 (b) An exclusive agent described by Subsection (a)(5) is  
15 considered an employee of the registered financial services company  
16 for purposes of this chapter.

17 SECTION 7. Section 156.203, Finance Code, is amended by  
18 adding Subsection (e) to read as follows:

19 (e) In addition to the disciplinary action by the  
20 commissioner authorized under Section 156.303(a)(7), the  
21 commissioner may collect a fee in an amount not to exceed \$50 for  
22 any returned check or credit card charge back.

23 SECTION 8. Section 156.204, Finance Code, is amended by  
24 amending Subsections (a) and (c) and adding Subsection (f) to read  
25 as follows:

26 (a) To be eligible to be licensed as a mortgage broker as an  
27 individual, the individual must:

1 (1) be at least 18 years of age;

2 (2) be a citizen of the United States or a lawfully  
3 admitted alien;

4 (3) maintain a physical office in this state and  
5 designate that office in the application;

6 (4) provide the commissioner with satisfactory  
7 evidence that the applicant satisfies one of the following:

8 (A) the individual [~~person~~] has received a  
9 bachelor's degree in an area relating to finance, banking, or  
10 business administration from an accredited college or university  
11 and has 18 months of experience in the mortgage or lending field as  
12 evidenced by documentary proof of full-time employment as a  
13 mortgage broker or licensed loan officer with a mortgage broker or  
14 an individual [~~a person~~] exempt under Section 156.202;

15 (B) the individual [~~person~~] is licensed in this  
16 state as:

17 (i) an active real estate broker under  
18 Chapter 1101, Occupations Code;

19 (ii) an active attorney; or

20 (iii) an active general lines [~~a local~~  
21 ~~recording agent or~~] insurance [~~solicitor or~~] agent or a limited  
22 lines [~~for a legal reserve life~~] insurance agent [~~company under~~  
23 ~~Chapter 21, Insurance Code~~], or holds an equivalent insurance  
24 license under the [~~Chapter 21,~~] Insurance Code; or

25 (C) the individual [~~person~~] has three years of  
26 experience in the mortgage lending field as evidenced by  
27 documentary proof of full-time employment as a licensed loan

1 officer with a mortgage broker or an individual [~~a person~~] exempt  
2 under Section 156.202;

3 (5) provide the commissioner with satisfactory  
4 evidence of:

5 (A) having passed an examination, offered by a  
6 testing service or company approved by the finance commission, that  
7 demonstrates knowledge of:

8 (i) the mortgage industry; and

9 (ii) the role and responsibilities of a  
10 mortgage broker; and

11 (B) compliance with the financial requirements  
12 of this chapter;

13 (6) not have been convicted of a criminal offense that  
14 the commissioner determines directly relates to the occupation of a  
15 mortgage broker as provided by Chapter 53, Occupations Code;

16 (7) satisfy the commissioner as to the individual's  
17 good moral character, including the individual's honesty,  
18 trustworthiness, and integrity;

19 (8) not be in violation of this chapter, a rule adopted  
20 under this chapter, or any order previously issued to the  
21 individual by the commissioner; and

22 (9) provide the commissioner with satisfactory  
23 evidence that:

24 (A) if the individual [~~person~~] has not been  
25 previously licensed as a mortgage broker or a loan officer under  
26 this subchapter, the individual [~~person~~] has completed 90  
27 [~~classroom~~] hours of education courses approved by the commissioner

1 under this section; or

2 (B) if the individual [~~person~~] has not been  
3 previously licensed as a mortgage broker under this subchapter but  
4 has been licensed as a loan officer under this subchapter, the  
5 individual [~~person~~] has successfully completed an additional 30  
6 [~~classroom~~] hours of education courses approved by the commissioner  
7 under this section.

8 (c) To be eligible to be licensed as a loan officer a person  
9 must:

- 10 (1) be an individual who is at least 18 years of age;  
11 (2) be a citizen of the United States or a lawfully  
12 admitted alien;  
13 (3) designate in the application the name of the  
14 mortgage broker sponsoring the loan officer;  
15 (4) provide the commissioner with satisfactory  
16 evidence that the applicant satisfies one of the following:

17 (A) the person [~~meets one of the requirements~~  
18 ~~described by Subsection (a)(4) and~~] has successfully completed at  
19 least 60 [~~classroom~~] hours of education courses approved by the  
20 commissioner; [~~under this section,~~]

21 (B) the person [~~has 18 months of experience as a~~  
22 ~~loan officer as evidenced by documentary proof of full-time~~  
23 ~~employment as a loan officer with a person exempt under Section~~  
24 ~~156.202 and~~] has successfully completed 30 [~~classroom~~] hours of  
25 education courses approved by the commissioner under this section  
26 if the applicant:

27 (i) has 18 months or more of experience as a



1 mortgage loan officer as evidenced by documentary proof of  
2 full-time employment as a mortgage loan officer with a person  
3 exempt under Section 156.202; or

4 (ii) is a person who meets the  
5 qualifications under Subsection (a)(4)(B); or

6 (C) the person holds an active mortgage broker  
7 license issued under this chapter [~~for applications received prior~~  
8 ~~to January 1, 2000, the mortgage broker that will sponsor the~~  
9 ~~applicant provides a certification under oath that the applicant~~  
10 ~~has been provided necessary and appropriate education and training~~  
11 ~~regarding all applicable state and federal law and regulations~~  
12 ~~relating to mortgage loans];~~

13 (5) not have been convicted of a criminal offense that  
14 the commissioner determines directly relates to the occupation of a  
15 loan officer as provided by Chapter 53, Occupations Code;

16 (6) satisfy the commissioner as to the individual's  
17 good moral character, including the individual's honesty,  
18 trustworthiness, and integrity;

19 (7) provide the commissioner with satisfactory  
20 evidence of having passed an examination, offered by a testing  
21 service or company approved by the finance commission, that  
22 demonstrates knowledge of:

23 (A) the mortgage industry; and

24 (B) the role and responsibilities of a loan  
25 officer; and

26 (8) not be in violation of this chapter, a rule adopted  
27 under this chapter, or any order previously issued to the

1 individual by the commissioner.

2 (f) Subsection (c) and this subsection expire January 1,  
3 2011.

4 SECTION 9. Effective January 1, 2011, Section 156.204,  
5 Finance Code, is amended by adding Subsection (c-1) to read as  
6 follows:

7 (c-1) To be eligible to be licensed as a loan officer a  
8 person must:

9 (1) be an individual who is at least 18 years of age;

10 (2) be a citizen of the United States or a lawfully  
11 admitted alien;

12 (3) designate in the application the name of the  
13 mortgage broker sponsoring the loan officer;

14 (4) provide the commissioner with satisfactory  
15 evidence that the applicant satisfies one of the following:

16 (A) the person has successfully completed at  
17 least 60 hours of education courses approved by the commissioner;

18 (B) the person has successfully completed 30  
19 hours of education courses approved by the commissioner under this  
20 section if the applicant has 18 months or more of experience as a  
21 residential mortgage loan originator as evidenced by documentary  
22 proof of full-time employment; or

23 (C) the person holds an active license as a  
24 residential mortgage loan originator under Chapter 157 and has held  
25 that license for a minimum of one year;

26 (5) not have been convicted of a criminal offense that  
27 the commissioner determines directly relates to the occupation of a

1 loan officer as provided by Chapter 53, Occupations Code;

2 (6) satisfy the commissioner as to the individual's  
3 good moral character, including the individual's honesty,  
4 trustworthiness, and integrity;

5 (7) provide the commissioner with satisfactory  
6 evidence of having passed an examination, offered by a testing  
7 service or company approved by the finance commission, that  
8 demonstrates knowledge of:

9 (A) the mortgage industry; and

10 (B) the role and responsibilities of a loan  
11 officer; and

12 (8) not be in violation of this chapter, a rule adopted  
13 under this chapter, or any order previously issued to the  
14 individual by the commissioner.

15 SECTION 10. Section 156.205, Finance Code, is amended to  
16 read as follows:

17 Sec. 156.205. FINANCIAL REQUIREMENTS [~~FOR A MORTGAGE~~  
18 ~~BROKER~~]. Financial requirements for holding a mortgage broker or  
19 loan officer license shall be met through participation in the  
20 fund. [(a) In this section, "net assets" means the difference  
21 between total assets and total liabilities, as determined by  
22 generally acceptable accounting principles, and does not include  
23 any assets that are exempt under state or federal law. All assets  
24 and liabilities are subject to verification by the commissioner.

25 ~~[(b) A mortgage broker must maintain net assets of at least~~  
26 ~~\$25,000 or a surety bond in the amount of at least \$50,000. The term~~  
27 ~~of the surety bond must coincide with the term of the license. The~~

1 ~~finance commission may adopt rules establishing the terms and~~  
2 ~~conditions of the surety bond and the qualifications of the surety.~~

3 ~~[(c) The commissioner shall require proof of compliance~~  
4 ~~with this section at the time the mortgage broker applies for or~~  
5 ~~renews a license.]~~

6 SECTION 11. Section 156.208, Finance Code, is amended by  
7 amending Subsections (a), (b), and (j) and adding Subsections (k)  
8 and (l) to read as follows:

9 (a) A mortgage broker license issued under this chapter is  
10 valid for a term of not more than two years and may be renewed on or  
11 before its expiration date if the mortgage broker:

12 (1) pays to the commissioner a renewal fee in an amount  
13 determined by the commissioner not to exceed \$375 and a recovery  
14 fund fee provided by Section 156.502;

15 (2) has not been convicted of a criminal offense the  
16 commissioner determines is directly related to the occupation of a  
17 mortgage broker as provided by Chapter 53, Occupations Code; and

18 (3) provides the commissioner with satisfactory  
19 evidence that the mortgage broker:

20 (A) has attended, during the term of the current  
21 license, 15 hours of continuing education courses that the  
22 commissioner, in accordance with the rules adopted by the finance  
23 commission under this section, has approved as continuing education  
24 courses; or

25 (B) maintains an active license in this state as:

26 (i) a real estate broker;

27 (ii) a real estate salesperson;

1 (iii) an attorney; or  
2 (iv) an active general lines insurance [~~a~~  
3 ~~local recording~~] agent or a limited lines [~~or~~] insurance [~~solicitor~~  
4 ~~or~~] agent [~~for a legal reserve life insurance company under Chapter~~  
5 ~~21, Insurance Code~~], or holds an equivalent insurance license under  
6 the [~~Chapter 21,~~] Insurance Code.

7 (b) A loan officer license issued under this chapter is  
8 valid for a term of not more than two years and may be renewed on or  
9 before its expiration date if the loan officer:

10 (1) pays to the commissioner a renewal fee in an amount  
11 determined by the commissioner not to exceed \$275 [~~\$175~~] and a  
12 recovery fund fee provided by Section 156.502;

13 (2) has not been convicted of a criminal offense the  
14 commissioner determines is directly related to the occupation of a  
15 loan officer as provided by Chapter 53, Occupations Code; and

16 (3) provides the commissioner with satisfactory  
17 evidence that the loan officer:

18 (A) has attended, during the term of the current  
19 license, 15 hours of continuing education courses that the  
20 commissioner, in accordance with the rules adopted by the finance  
21 commission under this section, has approved as continuing education  
22 courses, including courses provided by or through the licensed  
23 mortgage broker with whom the loan officer is associated after  
24 submission to and approval by the commission; or

25 (B) maintains an active license in this state as:

26 (i) a real estate broker;

27 (ii) a real estate salesperson;

1 (iii) an attorney; or  
2 (iv) an active general lines insurance [~~a~~  
3 ~~local recording~~] agent or a limited lines [~~or~~] insurance [~~solicitor~~  
4 ~~or~~] agent [~~for a legal reserve life insurance company under Chapter~~  
5 ~~21, Insurance Code~~], or holds an equivalent insurance license under  
6 the [~~Chapter 21,~~] Insurance Code.

7 (j) The commissioner may deny the renewal of a mortgage  
8 broker license or a loan officer license if:

9 (1) the mortgage broker or loan officer is in  
10 violation of this chapter, a rule adopted under this chapter, or any  
11 order previously issued to the individual by the commissioner;

12 (2) the mortgage broker or loan officer is in default  
13 in the payment of any administrative penalty, fee, charge, or other  
14 indebtedness owed under this title; [~~or~~]

15 (3) during the current term of the license, the  
16 commissioner becomes aware of any fact that would have been grounds  
17 for denial of an original license if the fact had been known by the  
18 commissioner on the date the license was granted; or

19 (4) the mortgage broker or loan officer is in default  
20 on a student loan administered by the Texas Guaranteed Student Loan  
21 Corporation, pursuant to Section 57.491, Education Code.

22 (k) In addition to the disciplinary action by the  
23 commissioner authorized under Section 156.303(a)(7), the  
24 commissioner may collect a fee in an amount not to exceed \$50 for  
25 any returned check or credit card charge back.

26 (l) Subsections (a) and (b) and this subsection expire  
27 January 1, 2011.

1 SECTION 12. Effective January 1, 2011, Section 156.208,  
2 Finance Code, is amended by adding Subsections (a-1) and (b-1) to  
3 read as follows:

4 (a-1) A mortgage broker license issued under this chapter is  
5 valid for a term of not more than two years and may be renewed on or  
6 before its expiration date if the mortgage broker:

7 (1) pays to the commissioner a renewal fee in an amount  
8 determined by the commissioner not to exceed \$375 and a recovery  
9 fund fee provided by Section 156.502;

10 (2) has not been convicted of a criminal offense the  
11 commissioner determines is directly related to the occupation of a  
12 mortgage broker as provided by Chapter 53, Occupations Code; and

13 (3) provides the commissioner with satisfactory  
14 evidence that the mortgage broker has attended, during the term of  
15 the current license, continuing education courses in accordance  
16 with the applicable requirements of Chapter 180.

17 (b-1) A loan officer license issued under this chapter is  
18 valid for a term of not more than two years and may be renewed on or  
19 before its expiration date if the loan officer:

20 (1) pays to the commissioner a renewal fee in an amount  
21 determined by the commissioner not to exceed \$275 and a recovery  
22 fund fee provided by Section 156.502;

23 (2) has not been convicted of a criminal offense the  
24 commissioner determines is directly related to the occupation of a  
25 loan officer as provided by Chapter 53, Occupations Code; and

26 (3) provides the commissioner with satisfactory  
27 evidence that the loan officer has attended, during the term of the

1 current license, continuing education courses in accordance with  
2 the applicable requirements of Chapter 180.

3 SECTION 13. The heading to Section 156.212, Finance Code,  
4 is amended to read as follows:

5 Sec. 156.212. MAINTENANCE AND LOCATION OF OFFICES [~~\*, DISPLAY~~  
6 ~~OF LICENSE CERTIFICATES~~].

7 SECTION 14. Section 156.214(b), Finance Code, as added by  
8 Chapter 228 (H.B. 1716), Acts of the 80th Legislature, Regular  
9 Session, 2007, is amended to read as follows:

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

12 (1) be a depository institution exempt from this  
13 chapter under Section 156.202(1)(A) or (B) and chartered and  
14 regulated by the Office of Thrift Supervision or the Office of the  
15 Comptroller of the Currency, or be a subsidiary or affiliate of the  
16 institution;

17 (2) provide the commissioner with satisfactory  
18 evidence of an undertaking of accountability in a form acceptable  
19 to the commissioner, supported by a surety bond equal to \$1 million  
20 to cover the person's responsibility for mortgage broker activities  
21 of each exclusive agent;

22 (3) provide a business plan satisfactory to the  
23 commissioner that sets forth the person's plan to provide education  
24 to its exclusive agents, handle consumer complaints relating to its  
25 exclusive agents, and supervise the mortgage broker activities of  
26 its exclusive agents;

27 (4) pay an annual registration fee in an amount



1 determined as follows [~~of the lesser of~~]:

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

5 (i) one-half of the license fee for a loan  
6 officer under Section 156.203(c)(1), multiplied by the number of  
7 exclusive agents under contract to act for the person in this state;  
8 or

9 (ii) [~~(B)~~] \$200,000;

10 (B) if the registered financial services company  
11 has at least 2,001 but not more than 2,500 exclusive agents acting  
12 in this state, \$225,000;

13 (C) if the registered financial services company  
14 has at least 2,501 but not more than 3,000 exclusive agents acting  
15 in this state, \$250,000;

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

19 (E) if the registered financial services company  
20 has at least 5,001 exclusive agents acting in this state, \$350,000;

21 and

22 (5) designate an officer of the person to be  
23 responsible for the activities of the exclusive agents.

24 SECTION 15. Section 156.301, Finance Code, is amended by  
25 adding Subsection (h) to read as follows:

26 (h) The commissioner may require reimbursement in an amount  
27 not to exceed \$325 for each examiner a day for on-site examination

1 or investigation of a mortgage broker if records are located out of  
2 state or if the review is considered necessary beyond the routine  
3 examination process.

4 SECTION 16. Section 156.302(a), Finance Code, is amended to  
5 read as follows:

6 (a) The commissioner, after notice and opportunity for  
7 hearing, may impose an administrative penalty on a person licensed  
8 under this chapter who violates this chapter or a rule or order  
9 adopted under this chapter.

10 SECTION 17. Section 156.303, Finance Code, is amended by  
11 amending Subsections (a), (e), (g), (h), and (j) and adding  
12 Subsection (a-1) to read as follows:

13 (a) The commissioner may order disciplinary action against  
14 a licensed mortgage broker or a licensed loan officer when the  
15 commissioner, after notice and opportunity for ~~[a]~~ hearing, has  
16 determined that the person:

17 (1) obtained a license, including a renewal of a  
18 license, under this chapter through a false or fraudulent  
19 representation or made a material misrepresentation in an  
20 application for a license or for the renewal of a license under this  
21 chapter;

22 (2) published or caused to be published an  
23 advertisement related to the business of a mortgage broker or loan  
24 officer that:

25 (A) is misleading;

26 (B) is likely to deceive the public;

27 (C) in any manner tends to create a misleading

1 impression;

2 (D) fails to identify as a mortgage broker or  
3 loan officer the person causing the advertisement to be published;  
4 or

5 (E) violates federal or state law;

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

9 (4) entered a plea of guilty or nolo contendere to, or  
10 is convicted of, a criminal offense that is a felony or that  
11 involves fraud or moral turpitude in a court of this or another  
12 state or in a federal court;

13 (5) failed to use a fee collected in advance of closing  
14 of a mortgage loan for a purpose for which the fee was paid;

15 (6) charged or received, directly or indirectly, a fee  
16 for assisting a mortgage applicant in obtaining a mortgage loan  
17 before all of the services that the person agreed to perform for the  
18 mortgage applicant are completed, and the proceeds of the mortgage  
19 loan have been disbursed to or on behalf of the mortgage applicant,  
20 except as provided by Section 156.304;

21 (7) failed within a reasonable time to honor a check  
22 issued to the commissioner after the commissioner has mailed a  
23 request for payment by certified mail to the person's last known  
24 business address as reflected by the commissioner's records;

25 (8) paid compensation to a person who is not licensed  
26 or exempt under this chapter for acts for which a license under this  
27 chapter is required;

1           (9) induced or attempted to induce a party to a  
2 contract to breach the contract so the person may make a mortgage  
3 loan;

4           (10) published or circulated an unjustified or  
5 unwarranted threat of legal proceedings in matters related to the  
6 person's actions or services as a mortgage broker or loan officer,  
7 as applicable;

8           (11) established an association, by employment or  
9 otherwise, with a person not licensed or exempt under this chapter  
10 who was expected or required to act as a mortgage broker or loan  
11 officer;

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

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

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

22           (15) failed or refused on demand to:

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

27                   (B) give the commissioner or the commissioner's

1 authorized personnel or representative free access to the books or  
2 records relating to the person's business kept by an officer,  
3 agent, or employee of the person or any business entity through  
4 which the person conducts mortgage brokerage activities, including  
5 a subsidiary or holding company affiliate; or

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

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

14 (17) disregarded or violated this chapter, a rule  
15 adopted by the finance commission under this chapter, or an order  
16 issued by the commissioner under this chapter; or

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

19 (a-1) The commissioner may also order disciplinary action  
20 after notice and opportunity for hearing against a licensed  
21 mortgage broker or a licensed loan officer if the commissioner  
22 becomes aware during the term of the license of any fact that would  
23 have been grounds for denial of an original license if the fact had  
24 been known by the commissioner on the date the license was issued.

25 (e) The commissioner, after giving notice and an  
26 opportunity for hearing, may impose against a person who violates a  
27 cease and desist order an administrative penalty in an amount not to

1 exceed \$1,000 for each day of the violation. In addition to any  
2 other remedy provided by law, the commissioner may institute in  
3 district court a suit for injunctive relief and to collect the  
4 administrative penalty. A bond is not required of the commissioner  
5 with respect to injunctive relief granted under this subsection.  
6 ~~[A penalty collected under this subsection shall be deposited in~~  
7 ~~the fund.]~~

8 (g) If a person fails to pay an administrative penalty that  
9 has become final or fails to comply with an order of the  
10 commissioner that has become final, in addition to any other remedy  
11 provided under law the commissioner, on not less than 10 days'  
12 notice to the person, may without a prior hearing suspend the  
13 person's mortgage broker license or loan officer license. The  
14 suspension shall continue until the person has complied with the  
15 ~~[cease and desist]~~ order or paid the administrative penalty.  
16 During the period of suspension, the person may not originate a  
17 mortgage loan and all compensation received by the person during  
18 the period of suspension is subject to forfeiture as provided by  
19 Section 156.406(b).

20 (h) An order of suspension under Subsection (g) may be  
21 appealed. An appeal is a contested case governed by Chapter 2001,  
22 Government Code. A hearing of an appeal of an order of suspension  
23 issued under Subsection (g) shall be held not later than the 30th  
24 ~~[15th]~~ day after the date of receipt of the notice of appeal. The  
25 appellant shall be provided at least three days' notice of the time  
26 and place of the hearing.

27 (j) The ~~[On notice and opportunity for hearing, the]~~

1 commissioner may, on not less than 10 days' notice to the person,  
2 suspend a person's license without a prior hearing under this  
3 chapter if an indictment or information is filed or returned  
4 alleging that the person committed a criminal offense involving  
5 fraud, theft, or dishonesty. The suspension continues until the  
6 criminal case is dismissed or the person is acquitted. A person may  
7 appeal the suspension in accordance with Subsection (h).

8 SECTION 18. Section 156.401(a), Finance Code, is amended to  
9 read as follows:

10 (a) The commissioner may employ an enforcement staff to  
11 investigate and prosecute complaints made against persons licensed  
12 under this chapter. The commissioner may employ a hearings officer  
13 to conduct hearings under this section. The commissioner may  
14 collect and deposit any court costs collected pursuant to a final  
15 order.

16 SECTION 19. Section 156.501, Finance Code, is amended by  
17 amending Subsections (a) and (b) and adding Subsections (d), (e),  
18 and (f) to read as follows:

19 (a) The commissioner shall establish, administer, and  
20 maintain a mortgage broker recovery fund as provided by this  
21 subchapter. The amounts received by the commissioner for deposit  
22 in the fund shall be held by the commissioner in trust for carrying  
23 out the purposes of the fund.

24 (b) Subject to this subsection, the [~~The~~] fund shall be used  
25 to reimburse residential mortgage loan applicants for actual  
26 damages incurred because of [~~aggrieved persons to whom a court~~  
27 ~~awards actual damages because of certain~~] acts committed by a

1 mortgage broker or loan officer who was licensed under this chapter  
2 when the act was committed. The use of the fund is limited to  
3 reimbursement for out-of-pocket losses caused by an act by a  
4 mortgage broker or loan officer that constitutes a violation of  
5 Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12),  
6 (13), or (16) or 156.304. Payments from the fund may not be made to  
7 a lender who makes a mortgage loan originated by the mortgage broker  
8 or loan officer or who acquires a mortgage loan originated by the  
9 mortgage broker or loan officer.

10 (d) The fund may be used at the discretion of the  
11 commissioner to reimburse expenses incurred to secure and destroy  
12 residential mortgage loan documents that have been abandoned by a  
13 current or former individual or entity under the regulatory  
14 authority of the department.

15 (e) Payments from the fund shall be reduced by the amount of  
16 any recovery from the mortgage broker or loan officer or from any  
17 surety, insurer, or other person or entity making restitution to  
18 the applicant on behalf of the mortgage broker or loan officer.

19 (f) The commissioner, as manager of the fund, is entitled to  
20 reimbursement for reasonable and necessary costs and expenses  
21 incurred in the management of the fund, including costs and  
22 expenses incurred with regard to applications filed under Section  
23 156.504.

24 SECTION 20. Section 156.502(a), Finance Code, is amended to  
25 read as follows:

26 (a) On an application for an original license or for renewal  
27 of a license issued under this chapter, the applicant, in addition



1 to paying the original application fee or renewal fee, shall pay a  
2 fee in an amount determined by the commissioner, not to exceed \$20  
3 ~~[fee]~~. The fee shall be deposited in the fund.

4 SECTION 21. Section 156.502(b), Finance Code, is amended to  
5 read as follows:

6 (b) If the balance remaining in the fund at the end of a  
7 calendar year ~~[after 2010]~~ is more ~~[less]~~ than \$3.5 million, the  
8 amount of money in excess of that amount shall be available to the  
9 commissioner to offset the expenses of participating in and sharing  
10 information with the Nationwide Mortgage Licensing System and  
11 Registry in accordance with Chapter 180 ~~[\$500,000, each mortgage~~  
12 ~~broker and loan officer licensed under this chapter, on the next~~  
13 ~~renewal of the license, shall pay, in addition to any other required~~  
14 ~~fees, the lesser of a \$10 fee or a pro rata share of the amount~~  
15 ~~necessary to bring the fund to \$1 million. The fee shall be~~  
16 ~~deposited in the fund]~~.

17 SECTION 22. Section 156.503, Finance Code, is amended to  
18 read as follows:

19 Sec. 156.503. STATUTE OF LIMITATIONS. (a) An application  
20 for the recovery of actual damages ~~[action for a judgment that~~  
21 ~~subsequently results in an order for collection]~~ from the fund  
22 under Section 156.504 may not be filed ~~[instituted]~~ after the  
23 second anniversary of the date of the alleged act or omission  
24 causing the actual damages or the date the act or omission should  
25 reasonably have been discovered.

26 (b) This section does not apply to a subrogation claim  
27 brought by the commissioner for recovery of money paid out of the

1 fund [~~on which the cause of action accrues~~].

2 SECTION 23. Section 156.504, Finance Code, is amended to  
3 read as follows:

4 Sec. 156.504. PROCEDURE FOR RECOVERY. (a) To recover from  
5 the fund, a residential mortgage loan applicant must file a written  
6 sworn application with the commissioner in the form prescribed by  
7 [~~An aggrieved person who recovers against a mortgage broker or loan~~  
8 ~~officer licensed under this chapter a valid court judgment for~~  
9 ~~conduct described by Section 156.501 that occurred on or after~~  
10 ~~January 1, 2000, after final judgment has been entered, execution~~  
11 ~~returned nulla bona, and a judgment lien perfected, may file a~~  
12 ~~verified claim in the court in which the judgment was entered and,~~  
13 ~~on 20 days' written notice to] the commissioner [~~and to the judgment~~  
14 ~~debtor, may apply to the court for an order directing payment from~~  
15 ~~the fund of any unpaid judgment amount], subject to Section  
16 156.503. A person who knowingly makes a false statement in  
17 connection with applying for money out of the fund may be subject to  
18 criminal prosecution under Section 37.10, Penal Code.~~~~

19 (b) The residential mortgage loan applicant [~~On the hearing~~  
20 ~~on the application, the aggrieved person] is required to show:~~

21 (1) that the applicant's claim [~~judgment~~] is based on  
22 facts allowing recovery under Section 156.501; and

23 (2) that the applicant:

24 (A) [~~person~~] is not a spouse of the licensed  
25 mortgage broker or loan officer;

26 (B) is not a child, parent, grandchild,  
27 grandparent, or sibling, including relationships by adoption, of

1 the licensed mortgage broker or loan officer;

2 (C) is not a person sharing living quarters with  
3 the licensed mortgage broker or loan officer or a current or former  
4 employer, employee, or associate of the licensed mortgage broker or  
5 loan officer;

6 (D) is not a person who has aided, abetted, or  
7 participated other than as a victim with the [of the debtor, or the  
8 personal representative of the spouse, and that the person is not]  
9 licensed [as a] mortgage broker or loan officer in any activity that  
10 is illegal under Section 156.303(a)(2), (3), (5), (6), (8), (9),  
11 (10), (11), (12), (13), or (16) or Section 156.304 or is not the  
12 personal representative of a licensed mortgage broker or loan  
13 officer; and

14 (E) is not licensed as a mortgage broker or loan  
15 officer under this chapter who is seeking to recover any  
16 compensation in the transaction or transactions for which the  
17 application for payment is made[+]

18 ~~[(3) that based on the best available information, the~~  
19 ~~judgment debtor lacks sufficient attachable assets in this state or~~  
20 ~~any other state to satisfy the judgment and the surety bond required~~  
21 ~~by Section 156.205 is not sufficient to satisfy the judgment; and~~

22 ~~[(4) the amount that may be realized from the sale of~~  
23 ~~property or other assets liable to be sold or applied in~~  
24 ~~satisfaction of the judgment and the balance remaining due on the~~  
25 ~~judgment after application of the amount that may be realized].~~

26 (c) On receipt of the verified application, the  
27 commissioner's staff shall:

1           (1) notify each appropriate license holder and the  
2 issuer of any surety bond issued in connection with their licenses;  
3 and

4           (2) investigate the application and issue a  
5 preliminary determination, giving the applicant, the license  
6 holder, and any surety an opportunity to resolve the matter by  
7 agreement or to dispute the preliminary determination.

8           (d) If the preliminary determination under Subsection  
9 (c)(2) is not otherwise resolved by agreement and is not disputed by  
10 written notice to the commissioner before the 31st day after the  
11 notification date, the preliminary determination automatically  
12 becomes final and the commissioner shall make payment from the  
13 fund, subject to [~~A recovery on the judgment against a single~~  
14 ~~defendant made before payment from the fund shall be applied first~~  
15 ~~by the creditor to actual damages.~~

16           ~~[(d) The court shall make an order directed to the~~  
17 ~~commissioner requiring payment from the fund of the amount the~~  
18 ~~court finds to be payable on the claim, pursuant to and in~~  
19 ~~accordance with the limitations contained in this subchapter, if~~  
20 ~~the court is satisfied, on the hearing, of the truth of all matters~~  
21 ~~required to be shown by the aggrieved person under Subsection (b)~~  
22 ~~and that the aggrieved person has satisfied all of the requirements~~  
23 ~~of this section.~~

24           ~~[(e) When the commissioner receives notice of entry of a~~  
25 ~~final judgment and a hearing is scheduled under this section, the~~  
26 ~~commissioner may notify the attorney general of the commissioner's~~  
27 ~~desire to enter an appearance, file a response, appear at the court~~

1 ~~hearing, defend the action, or to take any other appropriate~~  
2 ~~action. In taking any action described by this subsection, the~~  
3 ~~commissioner and the attorney general shall act only to protect the~~  
4 ~~fund from spurious or unjust claims or to ensure compliance with the~~  
5 ~~requirements for recovery under this subchapter.~~

6 ~~[(f) The commissioner may relitigate any issue material and~~  
7 ~~relevant in the hearing on the application that was determined in~~  
8 ~~the underlying action on which the judgment in favor of the~~  
9 ~~applicant was based.~~

10 ~~[(g) If the court finds that the aggregate amount of claims~~  
11 ~~against a licensed mortgage broker or loan officer exceeds] the~~  
12 ~~limits of [contained in] Section 156.505.~~

13 (e) If the preliminary determination under Subsection  
14 (c)(2) is disputed by the applicant, the license holder, or any  
15 surety by written notice to the commissioner before the 31st day  
16 after the notification date, the matter shall be set for a hearing  
17 governed by Chapter 2001, Government Code, and the hearing rules of  
18 the finance commission ~~[, the court shall reduce proportionately~~  
19 ~~the amount the court finds payable on the claim].~~

20 SECTION 24. Section 156.505, Finance Code, is amended to  
21 read as follows:

22 Sec. 156.505. RECOVERY LIMITS. (a) A person entitled to  
23 receive payment out of the fund is entitled to receive  
24 reimbursement of actual, out-of-pocket damages~~[, reasonable~~  
25 ~~attorney's fees, and court costs as determined by the court]~~ as  
26 provided by this section.

27 (b) A payment from the fund may be made ~~[only pursuant to a~~

1 ~~court order~~] as provided by Section 156.504 and this section. A  
2 payment for claims:

3 (1) arising out of the same transaction, including  
4 ~~[attorney's fees,~~ interest, ~~[and court costs,~~ is limited in the  
5 aggregate to \$25,000, regardless of the number of claimants; and

6 (2) ~~[based on judgments]~~ against a single person  
7 licensed as a mortgage broker or loan officer under this chapter  
8 arising out of separate transactions, including interest, is  
9 limited in the aggregate to \$50,000 until the fund has been  
10 reimbursed for all amounts paid.

11 (c) In the event there are concurrent claims under  
12 Subsections (b)(1) and (2) that exceed the amounts available under  
13 the fund, the commissioner shall prorate recovery based on the  
14 amount of damage suffered by each claimant.

15 SECTION 25. Section 156.506, Finance Code, is amended by  
16 amending Subsections (a) and (c) and adding Subsection (a-1) to  
17 read as follows:

18 (a) The commissioner may revoke a license issued under this  
19 chapter on proof that the commissioner has made a payment from the  
20 fund of any amount toward satisfaction of a claim ~~[judgment]~~  
21 against a ~~[person licensed as a]~~ mortgage broker or loan officer  
22 under this chapter.

23 (a-1) The commissioner may seek to collect from a mortgage  
24 broker or loan officer the amount paid from the fund on behalf of  
25 the mortgage broker or loan officer and any costs associated with  
26 investigating and processing the claim against the fund or with  
27 collection of reimbursement for payments from the fund, plus

1 interest at the current legal rate until the amount has been repaid  
2 in full. Any amount, including interest, recovered by the  
3 commissioner shall be deposited to the credit of the fund.

4 (c) A person on whose behalf payment was made from the fund  
5 is not eligible to receive a new license under this chapter until  
6 the person has repaid in full, plus interest at the current legal  
7 rate, the amount paid from the fund on the person's behalf and any  
8 costs associated with investigating and processing the claim  
9 against the fund or with collection of reimbursement for payments  
10 from the fund.

11 SECTION 26. Section 156.507, Finance Code, is amended to  
12 read as follows:

13 Sec. 156.507. SUBROGATION. When the commissioner has paid  
14 an applicant [~~a judgment creditor~~] an amount from the fund under  
15 Section 156.504 [~~as directed by the court~~], the commissioner is  
16 subrogated to all of the rights of the applicant [~~judgment~~  
17 ~~creditor~~] to the extent of the amount paid. The applicant [~~judgment~~  
18 ~~creditor~~] shall assign all of the applicant's [~~creditor's~~] right,  
19 title, and interest in [~~the judgment up to the amount paid by the~~  
20 ~~commissioner, and that amount has priority for repayment in the~~  
21 ~~event of~~] any subsequent [~~recovery on the~~] judgment against the  
22 license holder, up to the [~~Any~~] amount paid [~~, including interest,~~  
23 ~~recovered~~] by the commissioner. Any amount, including interest,  
24 recovered by the commissioner on the assignment [~~judgment~~] shall be  
25 deposited to the credit of the fund.

26 SECTION 27. Section 156.508, Finance Code, is amended to  
27 read as follows:





1       Sec. 16.002. SELF-DIRECTED AND SEMI-INDEPENDENT STATUS OF  
2 FINANCIAL REGULATORY AGENCIES. Notwithstanding any other  
3 provision of law, a financial regulatory agency is self-directed  
4 and semi-independent as specified by this chapter. Any Act of the  
5 81st Legislature that relates to a financial regulatory agency and  
6 that is inconsistent with the agency being self-directed and  
7 semi-independent may be implemented by the financial regulatory  
8 agency only on authorization by the policy-making body of the  
9 financial regulatory agency.

10       Sec. 16.003. BUDGET, REVENUES, AND EXPENSES. (a) A  
11 financial regulatory agency shall submit to the policy-making body  
12 of the financial regulatory agency a budget annually using  
13 generally accepted accounting principles. Notwithstanding any  
14 other provision of law, including the General Appropriations Act,  
15 the budget shall be adopted and approved only by the policy-making  
16 body of the financial regulatory agency.

17       (b) A financial regulatory agency shall be responsible for  
18 all direct and indirect costs of the agency's existence and  
19 operation. The financial regulatory agency may not directly or  
20 indirectly cause the general revenue fund to incur any cost.

21       (c) Subject to any limitations in a financial regulatory  
22 agency's enabling legislation, a financial regulatory agency may  
23 set the amounts of fees, penalties, charges, and revenues required  
24 or permitted by statute or rule as necessary for the purpose of  
25 carrying out the functions of the financial regulatory agency and  
26 funding the budget adopted and approved under Subsection (a).

27       (d) All fees and funds collected by a financial regulatory

1 agency and any funds appropriated to the financial regulatory  
2 agency shall be deposited in interest-bearing deposit accounts in  
3 the Texas Treasury Safekeeping Trust Company. The comptroller  
4 shall contract with the financial regulatory agency for the  
5 maintenance of the deposit accounts under terms comparable to a  
6 contract between a commercial banking institution and the  
7 institution's customers.

8 (e) Periodically, each financial regulatory agency shall  
9 submit to the agency's policy-making body, as directed by the  
10 policy-making body, a report of the receipts and expenditures of  
11 the financial regulatory agency.

12 (f) The fiscal year for a financial regulatory agency begins  
13 on September 1 and ends on August 31.

14 Sec. 16.004. AUDITS. This chapter does not affect the duty  
15 of the state auditor to audit a financial regulatory agency. The  
16 state auditor shall enter into a contract and schedule with each  
17 financial regulatory agency to conduct audits, including financial  
18 reports and performance audits. The financial regulatory agency  
19 shall reimburse the state auditor for all costs incurred in  
20 performing the audits and shall provide to the governor a copy of  
21 any audit performed.

22 Sec. 16.005. RECORDS; REPORTING REQUIREMENTS. (a) A  
23 financial regulatory agency shall keep financial and statistical  
24 information as necessary to disclose completely and accurately the  
25 financial condition and results of operations of the agency.

26 (b) Before the beginning of each regular session of the  
27 legislature, each financial regulatory agency shall submit to the

1 legislature and the governor a report describing all of the  
2 agency's activities in the previous biennium. The report must  
3 include:

4 (1) an audit as required by Section 16.004;

5 (2) a financial report of the previous fiscal year,  
6 including reports on financial condition and results of operations;

7 (3) a description of all changes in fees imposed on  
8 regulated industries;

9 (4) a report on changes in the regulatory jurisdiction  
10 of the agency, including the number of chartered financial  
11 institutions, license holders, and registrants subject to the  
12 agency's jurisdiction and any changes in those figures; and

13 (5) a list of all new rules adopted or repealed.

14 (c) In addition to the reporting requirements of Subsection  
15 (b), not later than November 1 of each year, each financial  
16 regulatory agency shall submit to the governor, the committee of  
17 each house of the legislature that has jurisdiction over  
18 appropriations, and the Legislative Budget Board a report that  
19 contains:

20 (1) the salary for all financial regulatory agency  
21 personnel and the total amount of per diem expenses and travel  
22 expenses paid for all agency employees;

23 (2) the total amount of per diem expenses and travel  
24 expenses paid for each member of the agency's policy-making body,  
25 provided that only one report must be submitted regarding the  
26 Finance Commission of Texas;

27 (3) the agency's operating plan and annual budget; and

1           (4) a detailed report of all revenue received and all  
2 expenses incurred by the financial regulatory agency in the  
3 previous 12 months.

4           Sec. 16.006. ABILITY TO CONTRACT. (a) To carry out and  
5 promote the objectives of this chapter, a financial regulatory  
6 agency may enter into contracts and do all other acts incidental to  
7 those contracts that are necessary for the administration of the  
8 agency's affairs and for the attainment of the agency's purposes,  
9 except as limited by Subsection (b).

10           (b) Any indebtedness, liability, or obligation of the  
11 financial regulatory agency incurred under this section may not:

12           (1) create a debt or other liability of this state or  
13 another entity other than the financial regulatory agency; or

14           (2) create any personal liability on the part of the  
15 members of the policy-making body or the body's or agency's  
16 employees.

17           Sec. 16.007. PROPERTY. A financial regulatory agency may:

18           (1) acquire by purchase, lease, gift, or any other  
19 manner provided by law and maintain, use, and operate any real,  
20 personal, or mixed property, or any interest in property, necessary  
21 or convenient to the exercise of the powers, rights, privileges, or  
22 functions of the financial regulatory agency;

23           (2) sell or otherwise dispose of any real, personal,  
24 or mixed property, or any interest in property, that the financial  
25 regulatory agency determines is not necessary or convenient to the  
26 exercise of the agency's powers, rights, privileges, or functions;

27           (3) construct, extend, improve, maintain, and

1 reconstruct, or cause to construct, extend, improve, maintain, and  
2 reconstruct, and use and operate all facilities necessary or  
3 convenient to the exercise of the powers, rights, privileges, or  
4 functions of the financial regulatory agency; and

5 (4) borrow money, as may be authorized from time to  
6 time by an affirmative vote of a two-thirds majority of the  
7 policy-making body of the financial regulatory agency, for a period  
8 not to exceed five years if necessary or convenient to the exercise  
9 of the financial regulatory agency's powers, rights, privileges, or  
10 functions.

11 Sec. 16.008. SUITS. The office of the attorney general  
12 shall represent a financial regulatory agency in any litigation.  
13 The attorney general may assess and collect from the financial  
14 regulatory agency reasonable attorney's fees associated with any  
15 litigation under this section.

16 Sec. 16.009. POST-PARTICIPATION LIABILITY. (a) If a  
17 financial regulatory agency no longer has status under this chapter  
18 as a self-directed semi-independent financial regulatory agency  
19 for any reason, the agency shall be liable for any expenses or debts  
20 incurred by the agency during the time the agency was a  
21 self-directed semi-independent financial regulatory agency. The  
22 agency's liability under this section includes liability for any  
23 lease entered into by the agency. This state is not liable for any  
24 expense or debt covered by this subsection, and money from the  
25 general revenue fund may not be used to repay the expense or debt.

26 (b) If a financial regulatory agency no longer has status  
27 under this chapter as a self-directed semi-independent financial

1 regulatory agency for any reason, ownership of any property or  
2 other asset acquired by the agency during the time the agency was a  
3 self-directed semi-independent financial regulatory agency,  
4 including unexpended fees in a deposit account in the Texas  
5 Treasury Safekeeping Trust Company, shall be transferred to this  
6 state.

7 Sec. 16.010. DUE PROCESS; OPEN GOVERNMENT. A financial  
8 regulatory agency is:

9 (1) a governmental body for purposes of Chapters 551  
10 and 552, Government Code; and

11 (2) a state agency for purposes of Chapters 2001 and  
12 2005, Government Code.

13 Sec. 16.011. MEMBERSHIP IN EMPLOYEES RETIREMENT SYSTEM.  
14 Employees of the financial regulatory agencies are members of the  
15 Employees Retirement System of Texas under Chapter 812, Government  
16 Code, and the agencies' transition to independent status as  
17 provided by this chapter has no effect on their membership or any  
18 benefits under that system.

19 Sec. 16.012. GIFTS. (a) Notwithstanding any other law, a  
20 financial regulatory agency may not accept a gift, grant, or  
21 donation:

22 (1) from a party to an enforcement action; or

23 (2) to pursue a specific investigation or enforcement  
24 action.

25 (b) A financial regulatory agency must:

26 (1) report each gift, grant, or donation that the  
27 agency receives as a separate item in the agency's report required

1 under Section 16.005(b); and

2 (2) include with the report a statement indicating the  
3 purpose for which each gift, grant, or donation was donated and  
4 used.

5 (b) Section 11.104, Finance Code, is amended to read as  
6 follows:

7 Sec. 11.104. EXPENSES AND COMPENSATION OF MEMBERS. A  
8 member of the finance commission is entitled to:

9 (1) the reimbursement for reasonable and necessary  
10 expenses incidental to travel incurred in connection with the  
11 performance of official duties; and

12 (2) a per diem [~~as set by legislative appropriation~~]  
13 for each day that the member engages in the business of the finance  
14 commission.

15 (c) Section 11.110(c), Finance Code, is amended to read as  
16 follows:

17 (c) A person appointed to the finance commission is entitled  
18 to reimbursement under Section 11.104, as if the person were a  
19 member of the finance commission, [~~as provided by the General~~  
20 Appropriations Act,] for the travel expenses incurred in attending  
21 the training program regardless of whether the attendance at the  
22 program occurs before or after the person qualifies for office.

23 (d) Section 11.204, Finance Code, is amended by adding  
24 Subsection (c) to read as follows:

25 (c) The finance commission shall have charge and control of  
26 the property known as the Finance Commission Building and use of  
27 staff, equipment, and facilities of the finance agencies. The

1 Finance Commission Building refers to the property located in the  
2 city of Austin and titled in the name of the Banking Section of the  
3 Finance Commission of Texas, as described by deed recorded in  
4 Volume 5080, Page 1099, of the Deed Records of Travis County, Texas.

5 (e) Section 15.2041(c), Finance Code, is amended to read as  
6 follows:

7 (c) A person appointed to the commission is entitled to  
8 reimbursement under Section 15.207, as if the person were a member  
9 of the commission, for travel expenses incurred in attending the  
10 training program, regardless of whether the attendance at the  
11 program occurs before or after the person qualifies for office [~~as~~  
12 ~~provided by the General Appropriations Act and as if the person were~~  
13 ~~a member of the commission~~].

14 (f) Subchapter E, Chapter 15, Finance Code, is amended by  
15 adding Section 15.4011 to read as follows:

16 Sec. 15.4011. CREDIT UNION DEPARTMENT BUILDING. The  
17 commission shall have charge and control of the property known as  
18 the Credit Union Department Building and use of staff, equipment,  
19 and facilities of the department. The Credit Union Department  
20 Building refers to the property located in the city of Austin and  
21 titled in the name of the State of Texas for the use and benefit of  
22 the Credit Union Department, as described by deed recorded in  
23 Volume 6126, Page 27, of the Deed Records of Travis County, Texas.

24 (g) Section 156.101(a), Finance Code, is amended to read as  
25 follows:

26 (a) The commissioner shall administer and enforce this  
27 chapter.



1 (h) Section 2165.007(b), Government Code, is amended to  
2 read as follows:

3 (b) Notwithstanding any other law, the commission shall  
4 provide facilities management services in relation to all state  
5 agency facilities in Travis County or a county adjacent to Travis  
6 County. The commission's duty does not apply to:

7 (1) a facility owned or operated by an institution of  
8 higher education;

9 (2) military facilities;

10 (3) facilities owned or operated by the Texas  
11 Department of Criminal Justice;

12 (4) facilities owned or operated by the Texas Youth  
13 Commission;

14 (5) facilities owned or operated by the Texas  
15 Department of Transportation;

16 (6) the Capitol, including the Capitol Extension, the  
17 General Land Office building, the Bob Bullock Texas State History  
18 Museum, any museum located on the Capitol grounds, the Governor's  
19 Mansion, and any property maintained by the Texas Historical  
20 Commission under Sections 442.0072 and 442.0073;

21 (7) a facility determined by the commission to be  
22 completely residential;

23 (8) a regional or field office of a state agency; [~~or~~]

24 (9) a facility located within or on state park  
25 property;

26 (10) the property known as the Finance Commission  
27 Building described by deed recorded in Volume 5080, Page 1099, of

1 the Deed Records of Travis County, Texas; or

2 (11) the property known as the Credit Union Department  
3 Building described by deed recorded in Volume 6126, Page 27, of the  
4 Deed Records of Travis County, Texas.

5 (i) Sections 12.103, 13.005, 13.008, 14.053, 14.060,  
6 15.104, 15.207(c), 15.308, 15.408, and 156.101(b) and (c), Finance  
7 Code, are repealed.

8 (j)(1) To provide a reasonable period for each financial  
9 regulatory agency, as defined by Section 16.001, Finance Code, as  
10 added by this section, to establish itself as a self-directed and  
11 semi-independent agency, the following amounts are appropriated  
12 from the general revenue fund to each of those financial regulatory  
13 agencies:

14 (A) for the state fiscal year ending August 31,  
15 2010, an amount equal to 50 percent of the amount of general revenue  
16 appropriated to the agency for the state fiscal year ending August  
17 31, 2009; and

18 (B) for the state fiscal year ending August 31,  
19 2011, an amount equal to 50 percent of the amount of general revenue  
20 appropriated to the agency for the state fiscal year ending August  
21 31, 2009.

22 (2) Subject to Section 16.003, Finance Code, as added  
23 by this section, the appropriations made by Subdivision (1) of this  
24 subsection may be spent by the financial regulatory agency to which  
25 they are made as the financial regulatory agency directs. The  
26 financial regulatory agency shall repay to the general revenue fund  
27 the appropriation made to the agency for the state fiscal year

1 ending August 31, 2010, not later than that date and as funds become  
2 available. The financial regulatory agency shall repay to the  
3 general revenue fund the appropriation made to the agency for the  
4 state fiscal year ending August 31, 2011, not later than that date  
5 and as funds become available.

6 (k) The transfer of a financial regulatory agency, as  
7 defined by Section 16.001, Finance Code, as added by this section,  
8 to self-directed and semi-independent status under Chapter 16,  
9 Finance Code, as added by this section, and the expiration of  
10 self-directed and semi-independent status may not act to cancel,  
11 suspend, or prevent:

12 (1) any debt owed to or by the financial regulatory  
13 agency;

14 (2) any fine, tax, penalty, or obligation of any  
15 party;

16 (3) any contract or other obligation of any party; or

17 (4) any action taken by the financial regulatory  
18 agency in the administration or enforcement of the agency's duties.

19 (l) Each financial regulatory agency, as defined by Section  
20 16.001, Finance Code, as added by this section, shall continue to  
21 have and exercise the powers and duties allocated to the agency in  
22 the agency's enabling legislation, except as specifically amended  
23 by this section.

24 (m) Title to all supplies, materials, records, equipment,  
25 books, papers, and facilities used by each financial regulatory  
26 agency, as defined by Section 16.001, Finance Code, as added by this  
27 section, is transferred to each respective financial regulatory

1 agency in fee simple. Nothing in this section shall have an effect  
2 on property owned by a financial regulatory agency on or before the  
3 effective date of this section.

4 (n) If a conflict exists between this section and another  
5 Act of the 81st Legislature, Regular Session, 2009, that relates to  
6 the self-directed and semi-independent status of a state financial  
7 regulatory agency, this section controls without regard to the  
8 relative dates of the enactment.

9 SECTION 29. Sections 156.212(c) and (d) and 156.502(c),  
10 Finance Code, are repealed.

11 SECTION 30. The provisions of this Act or the applications  
12 of those provisions are severable as provided by Section  
13 311.032(c), Government Code. If the Secretary of Housing and Urban  
14 Development determines that any provision of Sections 1-27 and 29  
15 of this Act fails to meet the requirements of the federal Secure and  
16 Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No.  
17 110-289), that provision of this Act shall be held invalid;  
18 however, the remainder of this Act or the application of the  
19 provision to other persons or circumstances is not affected.

20 SECTION 31. To the extent of any conflict, this Act prevails  
21 over another Act of the 81st Legislature, Regular Session, 2009,  
22 relating to nonsubstantive additions to and corrections in enacted  
23 codes.

24 SECTION 32. (a) Subject to Subsection (b) of this section,  
25 this Act takes effect September 1, 2009.

26 (b) Sections 1, 2, and 18 of this Act take effect only if  
27 House Bill 10 or another similar bill of the Regular Session of the

1 81st Legislature relating to the licensing of residential mortgage  
2 loan originators is enacted and becomes law. If House Bill 10 or  
3 another similar bill of the Regular Session of the 81st Legislature  
4 relating to the licensing of residential mortgage loan originators  
5 does not become law, Sections 1, 2, and 18 of this Act do not take  
6 effect.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2774 was passed by the House on April 28, 2009, by the following vote: Yeas 147, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2774 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2774 on May 31, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting.

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Chief Clerk of the House

H.B. No. 2774

I certify that H.B. No. 2774 was passed by the Senate, with amendments, on May 26, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2774 on June 1, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor