

By: Truitt

H.B. No. 2774

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of certain persons involved in mortgage lending; 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 Registration as set forth in the Texas Secure and Fair Enforcement for Mortgage Licensing Act, Chapter 180, Finance Code.

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

(a-1) The finance commission, for the purpose of enabling Texas to participate in the Nationwide Mortgage Licensing System and Registration and comply with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, by rule, may waive or modify, in whole or in part, any requirement of this chapter and establish requirements under this chapter that are reasonably necessary to accomplish that purpose.

SECTION 3. The heading to Section 156.104, Finance Code, and Sections 156.104(a) and (b), Finance Code, are amended to read as follows:

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

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

3 (b) The advisory committee is composed of six members to be  
4 appointed as follows:

5 (1) the commissioner shall appoint the [~~four~~] members,  
6 each of whom must be:

7 (A) under the regulatory authority of the  
8 department [~~must hold a mortgage broker license~~];

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

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

15 (2) [~~the Texas Real Estate Commission shall appoint~~  
16 ~~two members, each of whom must hold a real estate broker or~~  
17 ~~salesperson license~~] The committee shall include two mortgage  
18 brokers, two mortgage bankers, and two active Texas real estate  
19 licensees who are also licensed as a mortgage broker or registered  
20 as a mortgage banker.

21 SECTION 4. Sections 156.104(h)(1)(D) and 156.104(h)(1)(E),  
22 Finance Code, are repealed.

23 SECTION 5. Section 156.203, Finance Code, is amended by  
24 adding subsection (e) to read as follows:

25 (e) In addition to the disciplinary action by the  
26 commissioner authorized under Section 156.303(a)(7), the  
27 commissioner may collect a maximum \$50 fee for any returned check or

1 credit card charge back.

2 SECTION 6. Section 156.204(a)(4)(B), Finance Code, is  
3 amended to read as follows:

4 (B) the person is licensed in this state as:

5 (i) an active real estate broker under  
6 Chapter 1101, Occupations Code;

7 (ii) an active attorney; or

8 (iii) an active general lines insurance  
9 agent, a limited lines insurance agent, or holds an equivalent  
10 insurance license under the Texas Insurance Code [~~a local recording~~  
11 ~~agent or insurance solicitor or agent for a legal reserve life~~  
12 ~~insurance company under Chapter 21, Insurance Code, or holds an~~  
13 ~~equivalent license under Chapter 21, Insurance Code~~]; or

14 SECTION 7. Section 156.204(c)(4), Finance Code, is amended  
15 to read as follows:

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

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

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

1                    (i) has 18 months or more of experience as a  
2 mortgage loan officer as evidenced by documentary proof of full  
3 time employment as a mortgage loan officer with a person exempt  
4 under Section 156.202; or

5                    (ii) is a person who meets the  
6 qualifications under Section 156.204(4)(B)

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

13            SECTION 8. Section 156.205, Finance Code, is amended to  
14 read as follows:

15            Section 156.205. FINANCIAL REQUIREMENTS [~~FOR A MORTGAGE~~  
16 ~~BROKER~~]. Financial requirements for holding a mortgage broker or  
17 loan officer license shall be met through participation in the  
18 recovery fund.

19            SECTION 9. Subsections 156.205(a) through 156.205(c),  
20 Finance Code, are repealed.

21            SECTION 10. Sections 156.208(a) and (b), Finance Code, are  
22 amended to read as follows:

23            (a) A mortgage broker license issued under this chapter is  
24 valid for a maximum of two years and may be renewed on or before its  
25 expiration date if the mortgage broker:

26                    (1) pays to the commissioner a renewal fee in an amount  
27 determined by the commissioner not to exceed \$375 and a recovery

1 fund fee provided by Section 156.502;

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

5 (3) provides the commissioner with satisfactory  
6 evidence that the mortgage broker:

7 (A) has attended, during the term of the current  
8 license, 15 hours of continuing education courses that the  
9 commissioner, in accordance with the rules adopted by the finance  
10 commission under this section, has approved as continuing education  
11 courses; or

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

- 13 (i) a real estate broker;
- 14 (ii) a real estate salesperson;
- 15 (iii) an attorney; or
- 16 (iv) an active general lines insurance  
17 agent, a limited lines insurance agent, or holds an equivalent  
18 insurance license under the Texas Insurance Code [~~a local recording~~  
19 ~~agent or insurance solicitor or agent for a legal reserve life~~  
20 ~~insurance company under Chapter 21, Insurance Code, or an~~  
21 ~~equivalent license under Chapter 21, Insurance Code~~].

22 (b) A loan officer license issued under this chapter is  
23 valid for a maximum of two years and may be renewed on or before its  
24 expiration date if the loan officer:

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

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

4           (3) provides the commissioner with satisfactory  
5 evidence that the loan officer:

6           (A) has attended, during the term of the current  
7 license, 15 hours of continuing education courses that the  
8 commissioner, in accordance with the rules adopted by the finance  
9 commission under this section, has approved as continuing education  
10 courses, including courses provided by or through the licensed  
11 mortgage broker with whom the loan officer is associated after  
12 submission to and approval by the commission; or

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

14                   (i) a real estate broker;

15                   (ii) a real estate salesperson;

16                   (iii) an attorney; or

17                   (iv) an active general lines insurance  
18 agent, a limited lines insurance agent, or holds an equivalent  
19 insurance license under the Texas Insurance Code [~~a local recording~~  
20 ~~agent or insurance solicitor or agent for a legal reserve life~~  
21 ~~insurance company under Chapter 21, Insurance Code, or an~~  
22 ~~equivalent license under Chapter 21, Insurance Code~~].

23           SECTION 11. Section 156.208, Finance Code, is amended by  
24 adding subsection (j)(4) and subsection (k) to read as follows:

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

27                   (1) the mortgage broker or loan officer is in

1 violation of this chapter, a rule adopted under this chapter, or any  
2 order previously issued to the individual by the commissioner;

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

6 (3) during the current term of the license, the  
7 commissioner becomes aware of any fact that would have been grounds  
8 for denial of an original license if the fact had been known by the  
9 commissioner on the date the license was granted; or .]

10 (4) the mortgage broker or loan officer is in default  
11 on a student loan administered by the Texas Guaranteed Student Loan  
12 Corporation, pursuant to Section 57.492 of the Texas Education  
13 Code.

14 (k) In addition to the disciplinary action by the  
15 commissioner authorized under Section 156.303(a)(7) the  
16 commissioner may collect a maximum \$50 fee for any returned check or  
17 credit card charge back.

18 SECTION 12. The heading of Section 156.212, Finance Code,  
19 is amended to read as follows:

20 Section 156.212. MAINTENANCE AND LOCATION OF OFFICES~~[+~~  
21 ~~DISPLAY OF LICENSE CERTIFICATES]~~.

22 SECTION 13. Subsections 156.212 (c)and(d), Finance Code,  
23 are repealed.

24 SECTION 14. Section 156.214(b)(4), Finance Code, is amended  
25 to read as follows:

26 (4) pay an annual registration fee of ~~[the lesser of:~~  
27 ~~[(A)]~~ one-half of the license fee for a loan

1 officer under Section 156.203(c)(1), multiplied by the number of  
2 exclusive agents under contract to act for the person in this state;  
3 [~~or~~

4 [~~(B) — \$200,000~~]; and

5 SECTION 15. Section 156.301, Finance Code, is amended to  
6 add subsection (h) to read as follows:

7 (h) The commissioner may require reimbursement not to  
8 exceed \$325 per examiner per day for onsite examination or  
9 investigation of a mortgage broker where records are located out of  
10 state or where the review is deemed necessary beyond the routine  
11 examination process.

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

14 (a) The commissioner, after notice and opportunity for  
15 hearing, may impose an administrative penalty on a person licensed  
16 under this chapter who violates this chapter or a rule or order  
17 adopted under this chapter.

18 SECTION 17. Section 156.303(a), Finance Code, is amended to  
19 read as follows:

20 (a) The commissioner may order disciplinary action against  
21 a licensed mortgage broker or a licensed loan officer when the  
22 commissioner, after notice and opportunity for a hearing, has  
23 determined that the person:

24 SECTION 18. Section 156.303(a), Finance Code, is amended to  
25 add subsection (19) as follows:

26 (17) disregarded or violated this chapter, a rule  
27 adopted by the finance commission under this chapter, or an order

1 issued by the commissioner under this chapter; [~~or~~]

2 (18) provided false information to the commissioner  
3 during the course of an investigation or inspection; or

4 (19) during the current term of the license, the  
5 commissioner becomes aware of any fact that would have been grounds  
6 for denial of any original license if the fact had been known by the  
7 commissioner on the date the license was granted.

8 SECTION 19. Section 156.303(e), Finance Code, is amended to  
9 read as follows:

10 (e) The commissioner, after giving notice and opportunity  
11 for hearing, may impose against a person who violates a cease and  
12 desist order an administrative penalty in an amount not to exceed  
13 \$1,000 for each day of the violation. In addition to any other  
14 remedy provided by law, the commissioner may institute in district  
15 court a suit for injunctive relief and to collect the  
16 administrative penalty. A bond is not required of the commissioner  
17 with respect to injunctive relief granted under this subsection. [~~A~~  
18 ~~penalty collected under this subsection shall be deposited in the~~  
19 ~~fund.~~]

20 SECTION 20. Section 156.303(g), Finance Code, is amended to  
21 read as follows:

22 (g) If a person fails to pay an administrative penalty that  
23 has become final or fails to comply with an order of the  
24 commissioner that has become final, in addition to any other remedy  
25 provided under law the commissioner, on not less than 10 days'  
26 notice to the person, may without a prior hearing suspend the  
27 person's mortgage broker license or loan officer license. The

1 suspension shall continue until the person has complied with the  
2 [~~cease and desist~~] order or paid the administrative penalty. During  
3 the period of suspension, the person may not originate a mortgage  
4 loan and all compensation received by the person during the period  
5 of suspension is subject to forfeiture as provided by Section  
6 156.406(b).

7 SECTION 21. Section 156.303(h), Finance Code, is amended to  
8 read as follows:

9 (h) An order of suspension under Subsection (g) may be  
10 appealed. An appeal is a contested case governed by Chapter 2001,  
11 Government Code. A hearing of an appeal of an order of suspension  
12 issued under Subsection (g) shall be held not later than the 30th  
13 [~~15th~~] day after the date of receipt of the notice of appeal. The  
14 appellant shall be provided at least three days' notice of the time  
15 and place of the hearing.

16 SECTION 22. Subsection 156.303(j), Finance Code, is amended  
17 to read as follows:

18 (j) [~~On notice and opportunity for hearing, the~~] The  
19 commissioner may, on not less than 10 days' notice to the person,  
20 suspend a person's license without a prior hearing under this  
21 chapter if an indictment or information is filed or returned  
22 alleging that the person committed a criminal offense involving  
23 fraud, theft, or dishonesty. The suspension continues until the  
24 criminal case is dismissed or the person is acquitted. A person may  
25 appeal the suspension in accordance with the provisions of Section  
26 156.303(h).

27 SECTION 23. Section 156.401(a), Finance Code, is amended to

1 read as follows:

2 (a) The commissioner may employ an enforcement staff to  
3 investigate and prosecute complaints made against persons licensed  
4 under this chapter. The commissioner may employ a hearings officer  
5 to conduct hearings under this section. The commissioner may  
6 collect and deposit any court costs collected pursuant to a final  
7 order.

8 SECTION 24. Subchapter F, Finance Code, is amended to read  
9 as follows:

10 Sec. 156.501. MORTGAGE BROKER RECOVERY FUND.

11 (a) The commissioner shall establish, administer, and  
12 maintain a mortgage broker recovery fund as provided by this  
13 subchapter. The amounts received by the commissioner for deposit in  
14 the fund shall be held by the commissioner in trust for carrying out  
15 the purposes of the fund. The finance commission may prescribe  
16 rules on the commissioner's recommendation to promote a fair and  
17 orderly administration of the fund consistent with the purposes of  
18 this subchapter.

19 (b) The fund shall be used to reimburse residential mortgage  
20 loan applicants actual damages because of acts committed by  
21 ~~[aggrieved persons to whom a court awards actual damages because of~~  
22 ~~certain acts committed by]~~ a mortgage broker or loan officer who was  
23 licensed under this chapter when the act was committed. The use of  
24 the fund is limited to reimbursement for out of pocket losses caused  
25 by an act by a mortgage broker or loan officer that constitutes a  
26 violation of Section 156.303(a)(2), (3), (5), (6), (8), (9), (10),  
27 (11), (12), (13), or (16) or 156.304. Payments from the fund may

1 not be made to a lender who makes a mortgage loan originated by the  
2 mortgage broker or loan officer or who acquires a mortgage loan  
3 originated by the mortgage broker or loan officer. Payments from  
4 the fund shall be reduced by the amount of any recovery from the  
5 mortgage broker or loan officer or from any surety, insurer or other  
6 person or entity making restitution to the applicant on behalf of  
7 the mortgage broker or loan officer.

8 (c) Amounts in the fund may be invested and reinvested in  
9 the same manner as funds of the Texas State Employees Retirement  
10 System, and the interest from these investments shall be deposited  
11 to the credit of the fund. An investment may not be made under this  
12 subsection if the investment will impair the necessary liquidity  
13 required to satisfy judgment payments awarded under this  
14 subchapter.

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

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

24 Section 156.502. FUNDING.

25 (a) On an application for an original license or for renewal  
26 of a license issued under this chapter, the applicant, in addition  
27 to paying the original application fee or renewal fee, shall pay a

1 fee in an amount determined by the commissioner, not to exceed \$20  
2 [fee]. The fee shall be deposited in the recovery fund.

3 (b) If the balance remaining in the recovery fund at the end  
4 of the calendar year is more than \$3.5 million, the amount of money  
5 in excess of \$3.5 million shall be available to the commissioner to  
6 offset the expenses of participating in and sharing information  
7 with the Nationwide Mortgage Licensing System and Registry if  
8 participation is adopted. This provision shall be effective  
9 retroactive to December 31, 2008. ~~[If the balance remaining in the~~  
10 ~~fund at the end of a calendar year after 2010 is less than \$500,000,~~  
11 ~~each mortgage broker and loan officer licensed under this chapter,~~  
12 ~~on the next renewal of the license, shall pay, in addition to any~~  
13 ~~other required fees, the lesser of a \$10 fee or a pro rata share of~~  
14 ~~the amount necessary to bring the fund to \$1 million. The fee shall~~  
15 ~~be deposited in the fund.~~

16 ~~[(c) If the balance remaining in the mortgage broker~~  
17 ~~recovery fund at the end of a calendar year is more than the greater~~  
18 ~~of \$3.5 million or the total amount of claims paid from the fund~~  
19 ~~during the previous four fiscal years, the amount of money in excess~~  
20 ~~of the greater amount shall be transferred to the general revenue~~  
21 ~~fund.]~~

22 Section 156.503. STATUTE OF LIMITATIONS. An application  
23 for the recovery of actual damages from the fund may not be  
24 instituted after the second anniversary of the date of the alleged  
25 act or omission causing the actual damages or the date the act or  
26 omission should reasonably have been discovered. This statute of  
27 limitations shall not apply to subrogation claims brought by the

1 commissioner for recovery of money paid out of the fund. [~~An action~~  
2 ~~for a judgment that subsequently results in an order for collection~~  
3 ~~from the fund may not be instituted after the second anniversary of~~  
4 ~~the date on which the cause of action accrues.~~]

5 Section 156.504. PROCEDURE FOR RECOVERY.

6 (a) To recover from the recovery fund, a residential  
7 mortgage loan applicant must file a written sworn application with  
8 the commissioner in the form required by the commissioner, subject  
9 to Section 156.503. A person who knowingly makes a false statement  
10 in connection with applying for money out of the recovery fund may  
11 be subject to criminal prosecution under Section 37.10, Penal Code.

12 (b) The residential mortgage loan applicant is required to  
13 show:

14 (1) that the claim is based on facts allowing recovery  
15 under Section 156.501;

16 (2) that the applicant is not a spouse, child, parent,  
17 grandchild, grandparent, or sibling, including relationships by  
18 adoption, of the mortgage broker or loan officer, or a person  
19 sharing living quarters with the mortgage broker or loan officer or  
20 a current or former employer, employee, or associate of the  
21 mortgage broker or loan officer, or a person who has aided, abetted,  
22 or participated other than as a victim with the licensed mortgage  
23 broker or loan officer in any activity which is illegal under  
24 Section 156.303(a)(2), (3), (5), (6), (8), (9), (10), (11), (12),  
25 (13), or (16) or Section 156.304 or the personal representative of  
26 such a person, and that the applicant is not licensed as a mortgage  
27 broker or loan officer under this chapter who is seeking to recover

1 any compensation in the transaction or transactions for which the  
2 application for payment is made;

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

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

8 (2) investigate the application and issue a  
9 preliminary determination, giving the applicant, the licensee, and  
10 any surety an opportunity to resolve the matter by agreement or to  
11 dispute the preliminary determination.

12 (d) If the preliminary determination is not otherwise  
13 resolved by agreement and is not disputed by written notice to the  
14 commissioner before the 31st day after the notification date, the  
15 preliminary determination shall automatically become final and the  
16 commissioner shall make payment from the fund, subject to the  
17 limits under Section 156.505.

18 (e) If the preliminary determination is disputed by the  
19 applicant, licensee, or surety by written notice to the  
20 commissioner before the 31st day after the notification date, the  
21 matter shall be set for a hearing governed by Chapter 2001,  
22 Government Code, and the hearing rules of the finance commission.

23 ~~[(a) An aggrieved person who recovers against a mortgage~~  
24 ~~broker or loan officer licensed under this chapter a valid court~~  
25 ~~judgment for conduct described by Section 156.501 that occurred on~~  
26 ~~or after January 1, 2000, after final judgment has been entered,~~  
27 ~~execution returned nulla bona, and a judgment lien perfected, may~~

1 ~~file a verified claim in the court in which the judgment was entered~~  
2 ~~and, on 20 days' written notice to the commissioner and to the~~  
3 ~~judgment debtor, may apply to the court for an order directing~~  
4 ~~payment from the fund of any unpaid judgment amount, subject to~~  
5 ~~Section 156.503.~~

6 ~~[(b) On the hearing on the application, the aggrieved person~~  
7 ~~is required to show:~~

8 ~~[(1) that the judgment is based on facts allowing~~  
9 ~~recovery under Section 156.501;~~

10 ~~[(2) that the person is not a spouse of the debtor, or~~  
11 ~~the personal representative of the spouse, and that the person is~~  
12 ~~not licensed as a mortgage broker or loan officer under this chapter~~  
13 ~~who is seeking to recover any compensation in the transaction or~~  
14 ~~transactions for which the application for payment is made;~~

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

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

23 ~~[(c) A recovery on the judgment against a single defendant~~  
24 ~~made before payment from the fund shall be applied first by the~~  
25 ~~creditor to actual damages.~~

26 ~~[(d) The court shall make an order directed to the~~  
27 ~~commissioner requiring payment from the fund of the amount the~~

1 ~~court finds to be payable on the claim, pursuant to and in~~  
2 ~~accordance with the limitations contained in this subchapter, if~~  
3 ~~the court is satisfied, on the hearing, of the truth of all matters~~  
4 ~~required to be shown by the aggrieved person under Subsection (b)~~  
5 ~~and that the aggrieved person has satisfied all of the requirements~~  
6 ~~of this section.~~

7 ~~[(c) When the commissioner receives notice of entry of a~~  
8 ~~final judgment and a hearing is scheduled under this section, the~~  
9 ~~commissioner may notify the attorney general of the commissioner's~~  
10 ~~desire to enter an appearance, file a response, appear at the court~~  
11 ~~hearing, defend the action, or to take any other appropriate~~  
12 ~~action. In taking any action described by this subsection, the~~  
13 ~~commissioner and the attorney general shall act only to protect the~~  
14 ~~fund from spurious or unjust claims or to ensure compliance with the~~  
15 ~~requirements for recovery under this subchapter.~~

16 ~~[(f) The commissioner may relitigate any issue material and~~  
17 ~~relevant in the hearing on the application that was determined in~~  
18 ~~the underlying action on which the judgment in favor of the~~  
19 ~~applicant was based.~~

20 ~~[(g) If the court finds that the aggregate amount of claims~~  
21 ~~against a licensed mortgage broker or loan officer exceeds the~~  
22 ~~limits contained in Section 156.505, the court shall reduce~~  
23 ~~proportionately the amount the court finds payable on the claim.]~~

24 Sec. 156.505. RECOVERY LIMITS.

25 (a) A person entitled to receive payment out of the fund is  
26 entitled to receive reimbursement of actual, out-of-pocket  
27 damages[~~, reasonable attorney's fees, and court costs as determined~~

1 ~~by the court]~~ as provided by this section.

2 (b) A payment from the fund may be made ~~[only pursuant to a~~  
3 ~~court order]~~ as provided by Section 156.504. A payment for claims:

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

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

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

16 Sec. 156.506. REVOCATION OF LICENSE FOR PAYMENT FROM FUND.

17 (a) The commissioner may revoke a license issued under this chapter  
18 on proof that the commissioner has made a payment from the fund of  
19 any amount toward satisfaction of a claim against a mortgage broker  
20 or loan officer under this chapter. The commissioner may seek to  
21 collect from the mortgage broker or loan officer the amount paid  
22 from the fund on behalf of the mortgage broker or loan officer and  
23 any costs associated with investigating and processing the claim  
24 against the recovery fund or with collection of reimbursement for  
25 payments from the fund, plus interest at the current legal rate  
26 until the amount has been repaid in full. Any amount, including  
27 interest, recovered by the commissioner shall be deposited to the

1 credit of the fund. [~~The commissioner may revoke a license issued~~  
2 ~~under this chapter on proof that the commissioner has made a payment~~  
3 ~~from the fund of any amount toward satisfaction of a judgment~~  
4 ~~against a person licensed as a mortgage broker or loan officer under~~  
5 ~~this chapter.~~]

6 (b) The commissioner may probate an order revoking a license  
7 under this section.

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

15 (d) This section does not limit the authority of the  
16 commissioner to take disciplinary action against a mortgage broker  
17 or loan officer for a violation of this chapter or the rules adopted  
18 by the finance commission under this chapter. The repayment in full  
19 to the fund of all obligations of a mortgage broker or loan officer  
20 does not nullify or modify the effect of any other disciplinary  
21 proceeding brought under this chapter.

22 Sec. 156.507. SUBROGATION. When the commissioner has paid  
23 an applicant [~~a judgment creditor~~] an amount from the fund pursuant  
24 to Section 156.504 [~~as directed by the court~~], the commissioner is  
25 subrogated to all of the rights of the applicant [~~judgment~~  
26 ~~creditor~~] to the extent of the amount paid. The applicant [~~judgment~~  
27 ~~creditor~~] shall assign all of the applicant's [~~creditor's~~] right,

1 title, and interest in any subsequent judgment against the licensee  
2 [~~the judgment~~] up to the amount paid by the commissioner[, ~~and that~~  
3 ~~amount has priority for repayment in the event of any subsequent~~  
4 ~~recovery on the judgment~~]. Any amount, including interest,  
5 recovered by the commissioner on the assignment [~~judgment~~] shall be  
6 deposited to the credit of the fund.

7       Sec. 156.508. FAILURE TO COMPLY WITH SUBCHAPTER OR RULE  
8 ADOPTED BY THE FINANCE COMMISSION. The failure of an applicant for  
9 reimbursement [~~aggrieved person~~] to comply with a provision of this  
10 subchapter or with a rule adopted by the finance commission  
11 relating to the fund constitutes a waiver of any rights under this  
12 subchapter.

13       SECTION 25. EFFECTIVE DATE. This Act takes effect  
14 immediately if it receives a vote of two-thirds of all the members  
15 elected to each house, as provided by Section 39, Article III, Texas  
16 Constitution. If this Act does not receive the vote necessary for  
17 immediate effect, this Act takes effect September 1, 2009.