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## SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT

### 7 TAC §80.300

#### Statutory Authority

The rule is adopted under the authority of Finance Code §156.102, which authorizes the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, and as required to carry out the intentions of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act).

The adopted rule affects the statutes contained in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 15, 2021.

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## CHAPTER 80. TEXAS RESIDENTIAL MORTGAGE LOAN COMPANIES

### SUBCHAPTER B. LICENSING

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), adopts amendments, new rules, and rule repeals in 7 TAC Chapter 80, Texas Residential Mortgage Loan Companies. The commission's proposal was published in the September 10, 2021 issue of the *Texas Register* (46 TexReg 5679). The following rules sections are adopted with changes to the published text and are republished to reflect such changes: §80.102, and §80.107. The changes regulate no new parties and affect no new subjects of regulation. As a result, the rules will not be republished as proposed rules for comment. The remaining rules sections in the proposal are adopted without changes to the text as published in the *Texas Register*, and will not be republished.

#### Explanation of and Justification for the Rules

The existing rules under 7 TAC Chapter 80 implement Finance Code Chapter 156, Residential Mortgage Loan Companies (Chapter 156). The adopted rules were identified during the

department's periodic review of 7 TAC Chapter 80 conducted pursuant to Government Code §2001.039.

#### *Changes Concerning Licensing Procedures*

The department licenses residential mortgage loan companies (for purposes of the adopted rules, a "residential mortgage loan company" has the meaning assigned by Finance Code §156.002; mortgage company). The department utilizes the Nationwide Mortgage Licensing System & Registry (NMLS), owned and operated by a company that is a wholly-owned subsidiary of the Conference of State Bank Supervisors (CSBS), as its licensing database system. The adopted rules make various changes to clarify and set forth in rule various procedures utilized by the department in licensing mortgage companies. The adopted rules, among other things: (i) clarify how a mortgage company goes about sponsoring individual residential mortgage loan originators and its responsibility for supervising such originators; (ii) clarify the role of the individual residential mortgage loan originator appointed as the qualifying individual for purposes of Finance Code §156.002(10-b), including requiring the consent of such individual to be appointed; and (iii) clarify the commissioner's authority to approve a license renewal or reinstatement application with a minor deficiency so as to enable the licensed mortgage company to conduct regulated activities while the deficiency is resolved.

#### *Changes Concerning License Records*

The adopted rules make various changes concerning: the license records the department maintains with respect to each licensee in NMLS; responsibility for a licensed mortgage company to update such records; and the department's procedures for contacting a licensed mortgage company using the contact information derived from such records. The adopted rules, among other things: (i) expand existing requirements concerning a mortgage company updating and keeping current in the NMLS system various information associated with its license (contact information, information concerning its owners, etc.) by requiring that the mortgage company update such records within ten days after a material change occurs in such information; (ii) set forth in rule an existing requirement prohibiting a licensed mortgage company from allowing an individual residential mortgage loan originator to act on its behalf prior to becoming sponsored of record by such mortgage company in the NMLS system; (iii) set forth in rule procedures for the department to contact a mortgage company utilizing the contact information designated by the licensed mortgage company; and (iv) establish a new requirement providing that a licensed mortgage company must monitor the email address it has designated in the NMLS system for purposes of receiving correspondence or other notices from the department.

#### *Other Modernization and Update Changes*

The adopted rules make changes to modernize and update the rules including: adding and replacing language to improve clarity and readability; removing unnecessary or duplicative provisions; updating terminology; and reorganizing the rules sections by subject matter and to align more closely with similar subject matter in 7 TAC Chapter 81, Mortgage Bankers and Residential Mortgage Loan Originators.

#### Summary of Public Comments

Publication of the commission's proposal for the rules recited a deadline of 30 days to receive public comments, or October 10, 2021. A public hearing in accordance with Government Code §2001.029 was not required. The commission received

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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**7 TAC §80.206**

**Statutory Authority**

This proposal is made under the authority of Finance Code §156.102, which authorizes the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, and as required to carry out the intentions of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act).

This proposal affects the statutes contained in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

*§80.206. Physical Office.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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**SUBCHAPTER D. COMPLIANCE AND ENFORCEMENT**

**7 TAC §80.300**

**Statutory Authority**

This proposal is made under the authority of Finance Code §156.102, which authorizes the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, and as required to carry out the intentions of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (federal SAFE Act).

This proposal affects the statutes contained in Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act.

*§80.300. Examinations.*

(a) (No change.)

(b) Notice of Examination. Except when the Department determines that giving advance notice would impair the examination, the Department will give the primary contact person [~~qualifying individ-~~

~~ual~~] of the mortgage company listed in NMLS or a person designated by the primary contact person advance notice of each examination. Such notice will be sent to the primary contact person's or designated person's [~~qualifying individual's~~] mailing address or email address of record with NMLS and will specify the date on which the Department's examiners are scheduled to begin the examination. Failure to actually receive the notice will not be grounds for delay or postponement of the examination. The notice will include a list of the documents and records that must be produced or made [~~the mortgage company or sponsored originator must make~~] available to facilitate the examination.

(c) Examinations will be conducted to determine compliance with Finance Code, Chapter 156 and this chapter, and will specifically address whether:

(1) all persons conducting residential mortgage loan origination activities are properly licensed and sponsored [~~by the mortgage company in NMLS~~];

(2) all office locations [~~at which such activities are conducted~~] are properly licensed or [~~and~~] registered, as provided by §80.206 of this title (relating to Office Locations; Remote Work) [~~with NMLS~~];

(3) - (5) (No change.)

(d) - (g) (No change.)

(h) Reimbursement for Costs. When the Department must travel outside of Texas to conduct an examination of a mortgage company or a sponsored originator because the required records are maintained at a location outside of Texas, [~~the mortgage company or sponsored originator will be required to reimburse~~] the Department will require reimbursement for the actual costs incurred by the Department in connection with such travel including, but not limited to, transportation, lodging, meals, communications, courier service and any other reasonably related costs.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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**CHAPTER 81. MORTGAGE BANKERS AND RESIDENTIAL MORTGAGE LOAN ORIGINATORS**

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), proposes to repeal the following rule in 7 Texas Administrative Code (TAC) Chapter 81, Subchapter C: §81.206. The commission further proposes a new rule concerning the same or similar subject matter in 7 TAC Chapter 81, Subchapter C: §81.206. The commission further proposes amendments to existing rules in 7 TAC Chapter 81 as follows: Subchapter A, §81.2; Subchapter C, §81.203 and §81.204; and Subchapter D, §81.300. This proposal and the rules as repealed, amended, or added as a new