Common Mortgage Exam Violations

(updated December 9, 2024)

Findings	References
Unlicensed Processor • Independent contract processor (1099 or paid directly at closing) provides processing services and is not properly licensed in Texas. • An Independent Contractor Loan Processor and Underwriter Company employs unlicensed processors. ○ All loan processors and underwriters working for the Independent Contractor Loan Processor and Underwriter Company are required to obtain a Texas-SML mortgage loan originator license even if the employee is paid as a W2 employee. See 7 Texas Administrative Code § 55.100(6). • A properly licensed loan processor bills using an unlicensed company. • An independent contract processor is licensed in a different state but not in Texas. • A mortgage company or an originator hires an individual not properly licensed in Texas to perform administrative and processing functions.	Tex. Fin. Code, §180.051(b); §180.002(11); and §180.002(1).
Unlicensed Activity – Residential Mortgage Loan Originator (RMLO) • An individual originates mortgage loans without obtaining a license in Texas or before their originator license is approved. • An originator is licensed in a different state but is not licensed in Texas. • An originator begins accepting applications, offering or negotiating mortgage loans before receiving Temporary Authority from Texas (e.g., An individual assumes they have Temporary Authority, but they did not submit an application requesting Temporary Authority from Texas or did not meet the requirements). • An individual is accepting applications, offering or negotiating mortgage loans in Texas with an expired license or failed to renew their license timely.	Tex. Fin. Code §157.012

Information Security Program
• No Information Security Program developed.
• Program lacking the required criteria:
    ○ Designate an individual to coordinate the Program and include the designated individual's name and contact information;
    ○ Design and implement safeguards to control risks including:
        ▪ Access controls
        ▪ Data identification, classification, and asset management
        ▪ Encryption
        ▪ Secure development practices
        ▪ Multi-factor authentication
        ▪ Data disposal practices
        ▪ Change management procedures
        ▪ User activity logging and monitoring
    ○ Identify and assess internal and external risks to confidentiality and security of consumer information;
    ○ Test and monitor key controls identified through risk assessment;
    ○ Document the selection and oversight measures to ensure that service providers safeguard information;
    ○ Provide detailed policies and procedures for secure destruction and disposal of records;
	16 Code of Federal Regulations, Part 314

- Provide information security awareness training to all employees as part of initial training and annually, including specialized training to qualified individual and key personnel; and - Provide for periodic updating to reflect changes in risks.	
Remote Work Policy - Staff allowed to work remotely, but no Remote Work Policy in place. - Program lacking the required criteria: - Safeguards to protect consumer data, information, and records, including use of secure virtual private networks and data storage encryption where applicable; - Appropriate risk-based monitoring and oversight processes; - Monitor information systems for potential anomalies or security incidents; - Ensure electronic records are secured, and physical records are not maintained at a remote location; and - Provide information security awareness (remote work) training to all employees as part of initial training and annually.	Company – 7 TAC §56.206(c) Banker – 7 TAC §57.206(c)
Advertisements - Missing originator NMLS ID - Missing company name and NMLS ID - Missing web address - Website missing the Texas Consumer Complaint Notice - TX Notice – Company - TX Notice - Banker	Company - 7 TAC §56.203 Banker - 7 TAC §57.203
Transaction Log - Inaccurate loan application dates - Inaccurate originator (must provide originator who took the initial application) - Inaccurate loan status - Does not include adverse loans (denied, withdrawn, canceled)	Company - 7 TAC §56.204 Banker - 7 TAC §57.204
Conditional Letters - Missing required information: Pre-Qualification, Qualification, Pre-Approval, and Approval Letters must include all the information contained in either Form A (Conditional Pre-Qualification) or Form B (Conditional Approval) and must be signed by the issuing originator. - Incomplete Forms: Form A or Form B was used; however, sections of the Form were incomplete or left blank. - Incomplete Customized Letters were created; however, the customized letter lacked the required information. Customized letters must contain the information contained in either Form A or Form B. - Outdated Letters - Form A or Form B was used; however, the Form was the outdated version. Effective May 1, 2020, the required elements to be included in Conditional Letters were changed. - Forms were issued in every loan file. Conditional Letters / Forms are not required to be issued; however, if a Conditional Letter or Form is issued, it must include the information contained in either Form A or Form B, and the Form must be fully completed.	Company - 7 TAC §56.201 Banker - 7 TAC §57.201

Texas Mortgage Company Disclosure / Mortgage Banker Disclosure
• Incorrect Disclosure provided to the applicants:
    ○ The Mortgage Company Disclosure is required to be issued by originators sponsored by a Mortgage Company Licensee.
    ○ The Mortgage Banker Disclosure is required to be issued by originators sponsored by a Mortgage Banker Registrant.
• No Disclosure was provided to the applicants.
	Company - 7 TAC §56.200(a)
	Banker - 7 TAC §57.200(a)

Incomplete Files (Record-keeping) • Missing signed initial and final loan applications (1003) • Missing final, executed Closing Disclosure • Insufficient loan file documentation – missing disclosures, supporting documentation, invoices, etc. (brokered files)	Company - 7 TAC §56.204 Banker - 7 TAC §57.204
Adverse Action Notice • No record of an Adverse Action Notice being sent to the applicant. • Incomplete Notice – missing required elements (e.g., the reason for denial, credit scores, range of possible credit scores, or the name, address, and telephone numbers of the consumer reporting agencies). • The Notice did not include the name and address of the Federal Agency that administers compliance with ECOA (Federal Trade Commission).	§615(a) of the Fair Credit Reporting Act [15 U.S.C. § 1681g] Regulation B, 12 C.F.R. §1002.9
Initial Privacy Notice • Incomplete Notices – insufficient information or blank sections • The Notice is missing entirely or is not provided to the applicants. (brokered files)	Regulation P, 12 C.F.R. §1016.4
Notice of Penalties for Making False or Misleading Statement Disclosure • The Notice is missing entirely or is not provided to the applicants. • The Notice is signed before closing (must be signed at closing).	Tex. Fin. Code, §343.105
Bank Secrecy Act – Anti-Money Laundering (AML) Program (mortgage companies) Program lacking the required criteria: • Identifies policies, procedures and internal controls; • Designates an AML compliance officer; • Provides for ongoing training; • Provides for independent testing; and • Details procedures for filing SARs.	§1029.210 and §1029.320 of Title 31, Code of Federal Regulations, Chapter X
Identity Theft Prevention Program / Red Flags Rule Program lacking the required criteria: • Tailored appropriately to size and complexity of company; • Identifies relevant patterns, practices, and forms of red flags; • Incorporates business practices to detect red flags; • Details responses to red flags to prevent and mitigate identify theft; and • Provides for periodic updating to reflect changes in risks.	Section 615 (e) of the Fair Credit Reporting Act and 16 Code of Federal Regulations, Part 681
Written Service Providers List • No provider listed for a service for which applicants were permitted to shop. The List must include service providers for fees disclosed in Section C of the Loan Estimate. • The List did not include providers offering services in Texas. • The contact information for the service provider is missing.	TILA Regulation Z, 12 C.F.R. § 1026.19(e)(1)(vi)(C)