

Figure: 7 TAC §80.200(b)

"CONSUMERS WISHING TO FILE A COMPLAINT AGAINST A COMPANY OR A RESIDENTIAL MORTGAGE LOAN ORIGINATOR SHOULD COMPLETE AND SEND A COMPLAINT FORM TO THE TEXAS DEPARTMENT OF SAVINGS AND MORTGAGE LENDING, 2601 NORTH LAMAR, SUITE 201, AUSTIN, TEXAS 78705. COMPLAINT FORMS AND INSTRUCTIONS MAY BE OBTAINED FROM THE DEPARTMENT'S WEBSITE AT [WWW.SML.TEXAS.GOV](http://WWW.SML.TEXAS.GOV). A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT 1-877-276-5550.

THE DEPARTMENT MAINTAINS A RECOVERY FUND TO MAKE PAYMENTS OF CERTAIN ACTUAL OUT OF POCKET DAMAGES SUSTAINED BY BORROWERS CAUSED BY ACTS OF LICENSED RESIDENTIAL MORTGAGE LOAN ORIGINATORS. A WRITTEN APPLICATION FOR REIMBURSEMENT FROM THE RECOVERY FUND MUST BE FILED WITH AND INVESTIGATED BY THE DEPARTMENT PRIOR TO THE PAYMENT OF A CLAIM. FOR MORE INFORMATION ABOUT THE RECOVERY FUND, PLEASE CONSULT THE DEPARTMENT'S WEBSITE AT [WWW.SML.TEXAS.GOV](http://WWW.SML.TEXAS.GOV)."



## **Recovery Fund Claim Application Form**

### **Information:**

The Department of Savings and Mortgage Lending (Department) commissioner (Commissioner) administers a recovery fund (Recovery Fund), allowing for claims to be made against the fund to recover out-of-pocket monetary damages (money losses) incurred because of acts committed by a residential mortgage loan originator (originator) licensed by the Department (licensee) that constitute a violation of applicable law governing licensed originators.

The Recovery Fund claims process is governed by the statutes contained in Texas Finance Code Chapter 156, Subchapter F, available online at [statutes.capitol.texas.gov](http://statutes.capitol.texas.gov), and the Department's administrative rules contained in 7 Texas Administrative Code Chapter 52, Subchapter E, available online at [sos.state.tx.us/tac/index.shtml](http://sos.state.tx.us/tac/index.shtml)

A consumer seeking to make a claim against the Recovery Fund (claimant) must do so using the most recent version of this form prescribed by the Commissioner and posted on the Department's website ([sml.texas.gov](http://sml.texas.gov)). In order to make a claim, the application contained in this form must be completed in its entirety and signed and sworn to before a notary, and this form must be submitted to the Department by the method described below.

The Commissioner also administers another fund, known as the mortgage grant fund (Mortgage Grant Fund), against which claims may be made to recover out-of-pocket monetary damages (money losses) incurred because of fraud committed by an individual who acted in the capacity of an originator and was required to be licensed by the Department as such, but did not hold such license. A consumer seeking to make a claim against the Mortgage Grant Fund concerning unlicensed activity must use the form prescribed by the Commissioner for this purpose and posted on the Department's website ([sml.texas.gov](http://sml.texas.gov)).

The Department encourages a consumer who feels they may have been harmed by the actions of a licensed originator to make good faith efforts to resolve the matter with the licensee or the entity sponsoring the licensee (the mortgage company licensed by the Department or mortgage banker registered with the Department that sponsors the licensee), prior to making a claim against the Recovery Fund.

**BY COMPLETING AND SUBMITTING THE RECOVERY FUND CLAIM APPLICATION CONTAINED IN THIS FORM, YOU ARE DECLARING THAT THE INFORMATION IS TRUE AND CORRECT TO THE BEST OF YOUR KNOWLEDGE, AND SWEARING TO THE APPLICATION'S CONTENTS. PURSUANT TO TEXAS FINANCE CODE SECTION 156.504(a): "[A] PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT IN CONNECTION WITH APPLYING FOR MONEY OUT OF THE [RECOVERY] FUND MAY BE SUBJECT TO CRIMINAL PROSECUTION UNDER SECTION 37.10, [TEXAS] PENAL CODE."**

Upon receipt of the fully-completed and properly-executed Recovery Fund Claim Application, the Department will notify the licensee of the claim and investigate the allegations on which the claim is based. When investigation of the claim is complete, the Department will issue a written

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preliminary determination on the claim known as the Preliminary Determination Letter. Upon issuance of the Preliminary Determination Letter, the relevant parties involved have 31 days to either resolve the matter by agreement, or to dispute the determination made in the Preliminary Determination Letter; otherwise, the determination made in the Preliminary Determination Letter will be final.

If the Preliminary Determination Letter is disputed, the matter will be referred for an adjudicative hearing before an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) in Austin, Texas in accordance with Texas Government Code Chapter 2001.

Claims against the Recovery Fund are generally limited to \$25,000 per transaction, and \$50,000 per licensee. In the event there are multiple claims concerning the same transaction or licensee that exceed the applicable payment limitations, payments from the Recovery Fund will be prorated among the claimants based on the amount of damages incurred by each claimant.

Failure by a claimant to comply with the statutory requirements for making a claim on the Recovery Fund or the Department's rules adopted thereunder operates as waiver of any right the claimant may have to recover from the Recovery Fund.

**Recovery Fund Claim Application**

<b>FOR DEPARTMENT USE ONLY:</b>	
Claim Number:	Date Received:

**SUBMIT THE ENTIRE RECOVERY FUND CLAIM FORM (INCLUDING THIS FULLY-COMPLETED AND PROPERLY-EXECUTED APPLICATION) BY ONE OF THE FOLLOWING METHODS:**

<b>By Email:</b>	<b>By Mail:</b>
<p><a href="mailto:complaintsubmission@sml.texas.gov">complaintsubmission@sml.texas.gov</a></p> <p><i>If submitting by email, a quality, scanned copy of the fully-executed application must be provided. The claimant must maintain the original signed and notarized application throughout the claims process and must provide it to the Department upon request.</i></p>	<p>Department of Savings and Mortgage Lending Attn: Enforcement Division 2601 N. Lamar Blvd., Suite 201 Austin, Texas 78705</p>

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PLEASE PROVIDE YOUR CONTACT INFORMATION:

<b>Name</b>		
First:	Last:	
<b>Address</b>		
Street:		
City:	State:	Zip:
<b>Phone Numbers</b>		
Home:	Work:	
Cell:	Fax:	
<b>Email</b>		
<b>Social Security Number or Taxpayer Identification Number (required to receive funds)</b>		

PLEASE PROVIDE THE FOLLOWING INFORMATION CONCERNING THE LICENSED ORIGINATOR AGAINST WHOM YOU SEEK TO MAKE A CLAIM:

<b>Licensee's Name</b>		
First:	Last:	
<b>Company Name (mortgage company or mortgage banker sponsoring the licensee)</b>		
<b>Work Address</b>		
Street:		
City:	State:	Zip:
<b>Phone Numbers</b>		
Home:	Work:	
Cell:	Fax:	
<b>Email</b>		
<b>NMLS ID Number (if known)</b>		

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DO YOU HAVE AN ATTORNEY REPRESENTING YOU IN THIS MATTER?      YES      NO  
 IF YES, PLEASE PROVIDE THE FOLLOWING INFORMATION:

<b>Attorney's Name</b>		
First:	Last:	
<b>Law Firm's Name</b>		
<b>Work Address</b>		
Street:		
City:	State:	Zip:
<b>Phone Numbers</b>		
Home:	Work:	
Cell:	Fax:	
<b>Email</b>		

ITEMIZE THE AMOUNTS YOU SEEK TO RECOVER:

Amount	Description

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**LIST THE NAME AND CONTACT INFORMATION OF ANY WITNESSES OR INTERESTED PARTIES WHO MAY HAVE RELEVANT INFORMATION OR DOCUMENTATION CONCERNING THE SUBJECT MATTER OF YOUR CLAIM, AND DESCRIBE HIS OR HER RELATIONSHIP TO THE TRANSACTION ON WHICH YOUR CLAIM IS BASED:**

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**FACTUAL INFORMATION:** State the facts of your claim in the order of their occurrence, starting with the earliest date and working forward. Attach additional sheets as needed.

