

# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 7. BANKING AND SECURITIES

### PART 1. FINANCE COMMISSION OF TEXAS

#### CHAPTER 2. RESIDENTIAL MORTGAGE LOAN ORIGINATORS REGULATED BY THE OFFICE OF CONSUMER CREDIT COMMISSIONER

The Finance Commission of Texas (commission) adopts amendments to §2.106 (relating to Denial, Suspension, or Revocation Based on Criminal History) and §2.202 (relating to Maintaining Contact Information), in 7 TAC, Chapter 2, concerning Residential Mortgage Loan Originators Regulated by the Office of Consumer Credit Commissioner.

The commission adopts the amendments to §2.106 and §2.202 without changes to the proposed text as published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2621). The rules will not be republished.

The commission received no official comments on the proposed amendments.

The rules in 7 TAC Chapter 2 govern residential mortgage loan originators (RMLOs) regulated by the OCCC. In general, the purpose of the amendments to 7 TAC Chapter 2 is to implement changes resulting from the commission's review of the chapter under Texas Government Code, §2001.039. Notice of the review of 7 TAC Chapter 2 was published in the *Texas Register* on February 4, 2022 (47 TexReg 541). The commission received no comments in response to that notice.

The OCCC distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held a stakeholder meeting and webinar regarding the rule changes. The OCCC received no informal precomments on the rule text draft.

Amendments to §2.106 specify that the OCCC will receive criminal history information about an RMLO applicant through the NMLS system. Under Texas Finance Code, §180.055(a), the OCCC is authorized to consider an RMLO applicant's criminal history in determining whether to issue a license. Under Texas Finance Code, §180.054, RMLO applicants are required to submit fingerprints to NMLS, and the OCCC is authorized to use NMLS as a channeling agent for obtaining criminal history information. The amendments to §2.106(a) clarify that the OCCC receives criminal history information through NMLS.

Amendments to §2.202 specify requirements for RMLOs to maintain current contact information. Currently, §2.202 requires an RMLO to notify the OCCC if there is a change to the RMLO's

address, name, or employer. Adopted subsection (a) specifies a 30-day deadline for providing updated information, similar to other OCCC rules that contain a 30-day deadline for licensees to provide updated contact information. Adopted subsection (b) explains that it is a best practice for RMLOs to regularly review contact information on file with the OCCC to ensure that it is current and correct, similar to other OCCC rules specifying this as a best practice. The OCCC requires current and correct information about RMLO licensees in order to carry out its responsibilities under Texas Finance Code, Chapter 180.

#### SUBCHAPTER A. APPLICATION PROCEDURES

##### 7 TAC §2.106

The rule amendments are adopted under Texas Finance Code, §180.061, which authorizes the commission to adopt rules relating to criminal background checks for RMLOs, as well as rules relating to amending an RMLO license. In addition, Texas Finance Code, §180.004 authorizes the commission to implement rules to comply with Texas Finance Code, Chapter 180.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 180.

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 June 24, 2022.

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Finance Commission of Texas

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For further information, please call: (512) 936-7660



#### SUBCHAPTER B. OPERATIONAL REQUIREMENTS

##### 7 TAC §2.202

The rule amendments are adopted under Texas Finance Code, §180.061, which authorizes the commission to adopt rules relating to criminal background checks for RMLOs, as well as rules relating to amending an RMLO license. In addition, Texas Finance Code, §180.004 authorizes the commission to implement rules to comply with Texas Finance Code, Chapter 180.

The statutory provisions affected by the adoption are contained in Texas Finance Code, Chapter 180.

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

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Deputy General Counsel, Office of Consumer Credit Commissioner

Finance Commission of Texas

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For further information, please call: (512) 936-7660



## PART 4. DEPARTMENT OF SAVINGS AND MORTGAGE LENDING

### CHAPTER 51. CHARTER APPLICATIONS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), adopts the repeal of all preexisting rules in 7 TAC Chapter 51, as follows: §§51.1 - 51.15. The commission further adopts new rules in 7 TAC Chapter 51, as follows: §§51.1 - 51.4, 51.100, 51.200, 51.300 - 51.304, 51.400 - 51.405, and 51.500 - 51.506. The commission's proposal was published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2622). The following rules are adopted with changes to the published text and are republished to reflect such changes: §§51.1, 51.2, 51.100, 51.300, 51.301, 51.400, 51.401, 51.403, 51.500, and 51.501. 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 in the proposal are adopted without changes to the proposed text as published in the *Texas Register* and will not be republished.

Explanation of and Justification for the Rules

*Changes Concerning the Relocation (Swapping) of 7 TAC Chapters 51 and 52*

The department's preexisting rules in 7 TAC Chapters 51, 53, 57, 61, 64, 65, 67, 69, 71, and 73 implement Finance Code Title 3, Subtitle B, Savings and Loan Associations, and affect savings and loan associations regulated by the department. The department's preexisting rules in 7 TAC Chapter 52, Department Administration, concern the administrative processes and procedures of the Department, and are therefore located among the rule chapters concerning savings and loan associations which may tend to create confusion for the reader. The department further asserts that 7 TAC Chapter 51 - the first rule chapter assigned to the department - is a more appropriate chapter for the department's rules concerning its administrative processes and procedures to reside. As a result, the department has determined it should relocate the preexisting rules in 7 TAC Chapters 51 and 52 by essentially swapping the rules in such chapters. Specifically, the adopted rules: (i) repeal the preexisting rules in 7 TAC Chapter 51 and insert new rules largely patterned after the preexisting rules in 7 TAC Chapter 52; and (ii) rename 7 TAC Chapter 51 to reflect the new rules inserted in such chapter.

*Changes concerning Complaint Processing Rules*

The department receives, analyzes, and investigates complaints from consumers concerning the persons it regulates. The

adopted rules make changes to the department's preexisting rules in 7 TAC Chapter 52, Subchapter A, Complaint Processing, including: (i) changes to preexisting §52.10, Definitions, to: add definitions for the terms "Commissioner" and "Department"; and clarify that the department will attempt to collect appropriate information to facilitate analysis or investigation of a complaint but will not treat such complaint as an inquiry for failure to include all such information; (ii) changes to preexisting §52.11, Complaint Processing, to: clarify that a person filing a complaint who wishes to remain anonymous must request such treatment; clarify that an inquiry concerning a person or activity the department does not regulate will be referred to the appropriate regulatory authority, if known; clarify that a complaint may not be forwarded to the entity or individual that is the subject of the complaint if notice of the complaint would jeopardize analysis or investigation of the complaint by the department; and clarify when the department provides status updates to the complainant concerning their complaint (no less often than quarterly); and (iii) changes to preexisting §52.12, Complaint Resolution and Disposition, to: clarify the department's process to close a complaint if it is outside the department's jurisdiction; clarify that, if an enforcement action is deemed to be warranted in order to address the complaint, the party to such action will be notified of the complaint being closed through such enforcement action and will not receive a separate notice; and establish a time limit of ninety days for a complainant to appeal the department's disposition of their complaint, and clarify that the department will provide written notice to the complainant of the results of a timely appeal request.

*Changes concerning the Mortgage Grant Fund grant program*

Finance Code Chapter 156, Subchapter G requires the department's commissioner to administer the mortgage grant fund. The primary purpose of the mortgage grant fund is to promote financial education relating to mortgage loans and to support other statewide financial education, activities, and programs. The adopted rules make changes to the department's preexisting rule at 7 TAC §52.205, Grant Program, to properly align the rule's provisions concerning the grant program's programmatic schedule with the department's plans for the inaugural grant cycle to occur in calendar year 2023.

*Other Modernization and Update Changes.*

The adopted rules make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; removing unnecessary or duplicative provisions; and updating terminology.

Summary of Public Comments

Publication of the commission's proposal for the rules recited a deadline of 30 days to receive public comments, or June 5, 2022. A public hearing in accordance with Government Code §2001.029 was not required. No comments were received.

#### 7 TAC §§51.1 - 51.15

Statutory Authority

The rule repeals are adopted under the authority of: Finance Code §11.302(a), authorizing the commission to adopt rules applicable to Texas-chartered savings associations (savings and loan associations); Finance Code §62.001, authorizing the commission to adopt rules concerning the information required in an application for a savings and loan association charter; and Finance Code §66.002(3), authorizing the commission to adopt rules concerning the procedures for processing, hearing, and

deciding applications filed with the department's commissioner relating to the operation of a savings and loan association.

The adopted rule repeals affect the statutes contained in Finance Code Title 3, Subtitle B.

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

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## CHAPTER 51. DEPARTMENT ADMINISTRATION

### SUBCHAPTER A. COMPLAINTS

#### 7 TAC §§51.1 - 51.4

##### Statutory Authority

The rules are adopted under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Finance Code §96.002(a), authorizing the commission to adopt rules necessary to supervise and regulate Texas-chartered savings banks and to protect public investment in Texas-chartered savings banks; Finance Code §156.102, authorizing the commission to adopt rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing and Registration Act; Finance Code §157.0023, authorizing the commission to adopt rules necessary to implement or fulfill the purposes of Finance Code Chapter 157, the Mortgage Banker Registration and Residential Mortgage Loan Originator License Act; Finance Code §158.003(b), authorizing the commission to adopt and enforce rules necessary for the purposes of or to ensure compliance with Finance Code Chapter 158, the Residential Mortgage Loan Servicer Registration Act; Finance Code §159.108, authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 159, Subchapter C; Finance Code §180.004, authorizing the commission to implement rules necessary to comply with Finance Code Chapter 180, the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 (Texas SAFE Act); and Finance Code §180.061(5), authorizing the commission to adopt rules establishing requirements for investigation and examination authority for purposes of investigating a violation or complaint arising under the Texas SAFE Act. The rules are also adopted under the authority of, and to implement, Finance Code §§11.307, 13.011, 156.301, 157.0022, 157.009, 157.021, 158.059, and 158.102.

The adopted rules affect the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

##### §51.1. Definitions.

The following terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(2) "Complainant" means a person who files a complaint with the Department.

(3) "Complaint" means a signed, written communication received by the Department's division for consumer assistance that expresses dissatisfaction with a transaction or alleges wrongful conduct. The Department will collect the following items and information regarding a complaint, if available:

(A) the complainant's name and contact information;

(B) the name of the entity or individual against whom the complaint is submitted;

(C) the date and place of the alleged misconduct, violation, or transaction;

(D) a description of the facts or conduct alleged to violate applicable statutes or rules; and

(E) any written documentation supporting the complaint.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Inquiry" means a written communication received by the Department's division for consumer assistance that is not a complaint.

##### §51.2. Complaint Processing.

(a) Complaints and inquiries filed with the Department are generally considered public information, unless a specific statutory exception applies.

(b) The Department, at the request of the complainant, will make a good faith effort to protect the complainant's identity to the extent possible.

(c) The Department will determine if a complaint or inquiry relates to an activity that the Department regulates, and:

(1) if the Department does not regulate the activity that is the subject of the complaint or inquiry, the Department will close the complaint or inquiry and refer the person making the complaint or inquiry to the appropriate regulatory authority, if known; or

(2) if the Department regulates the activity that is the subject of a complaint, the Department will send a copy or a summary of the complaint and appropriate supporting documentation to the entity or individual that is the subject of the complaint to request a response, unless notice of the complaint would jeopardize analysis or investigation of the complaint or the Commissioner or his or her designee otherwise determines an undercover or covert investigation is warranted.

(d) A regulated entity or individual that receives a complaint forwarded by the Department must respond within 14 calendar days from the date the request was sent by the Department, unless an extension of time is granted. If an extension of time is granted, the regulated entity or individual must respond by the deadline recited in or otherwise created by the extension of time.

(e) The Department will prioritize complaints for purposes of determining the order in which complaints are investigated, taking into account the seriousness of the allegations made in a complaint and the length of time a complaint has been pending.

(f) The Department will monitor how long each complaint is open, and will make all reasonable efforts to resolve complaints within 90 calendar days of receipt of actionable information. The Department will notify the complainant of his or her complaint status at least quarterly until final disposition, unless such notice would jeopardize an ongoing complaint analysis or investigation.

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

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## SUBCHAPTER B. HEARINGS AND APPEALS

### 7 TAC §51.100

Statutory Authority

The rule is adopted under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Government Code §2009.051(c), authorizing a state agency to adopt alternative dispute resolution procedures by rule. The rule is also adopted under the authority of, and to implement, Finance Code §13.017.

The adopted rule affects the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

*§51.100. Appeals, Hearings, and Informal Settlement Conferences.*

(a) Alternative Resolution of Appeal. If legal or enforcement staff determines an enforcement action that has been appealed may be resolved without a hearing, legal or enforcement staff may pursue settlement through negotiation, mediation, agreed order, consent order, informal settlement conference, alternative dispute resolution, or other appropriate means.

(b) Informal Settlement Conferences. The Department may conduct an informal settlement conference in order to resolve an enforcement action that has been appealed. An individual or entity subject to an enforcement action may request an informal settlement conference. An informal settlement conference does not create any new rights or obligations. Informal settlement conferences:

(1) are conducted at the discretion of legal or enforcement staff;

(2) may not be used as a delay tactic; and

(3) may be primarily conducted remotely, including solely over the phone or videoconference, or by email.

(c) Mediation. As applicable under Finance Code §13.017, the Department may, at the discretion of the Commissioner or his or her designee, arrange for the services of a qualified mediator or subject matter expert to assist in resolving complaints or other matters.

(d) Hearings. Hearings may be conducted in accordance with Chapter 9 of this title (relating to Rules of Procedure for Contested Case

Hearings, Appeals, and Rulemakings), with Texas Government Code Chapter 2001, and may be conducted by the State Office of Administrative Hearings (SOAH).

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

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## SUBCHAPTER C. ADVISORY COMMITTEES

### 7 TAC §51.200

Statutory Authority

The rule is adopted under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; and Government Code §2110.008, authorizing a state agency that has established an advisory committee to designate, by rule, the date on which the committee will be automatically abolished. The rule is also adopted under the authority of, and to implement, Finance Code §13.018.

The adopted rule affects Finance Code §§13.018, 156.104, and 157.0024.

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

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## SUBCHAPTER D. RECOVERY FUND

### 7 TAC §§51.300 - 51.304

Statutory Authority

The rules are adopted under the authority of: Finance Code §156.102(a), authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing Act; and Finance Code §156.102(b-1), authorizing the commission to adopt rules to promote the fair and orderly administration of the recovery fund administered by the department's commissioner under Finance Code Chapter 156, Subchapter F

The adopted rules affect the statutes contained in Finance Code Chapter 156.

*§51.300. Purpose and Applicability.*

The rules contained in 7 TAC Chapter 51, Subchapter D govern the Commissioner's administration of the recovery fund the Commissioner is required to establish, administer and maintain in accordance Finance Code §13.016 and Chapter 156, Subchapter F.

*§51.301. Definitions.*

The following terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) "Application" means a request, in any form, for an offer (or a response to a solicitation for an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income, social security number to obtain a credit report, property address, an estimate of the value of the real estate, and/or the mortgage loan amount.

(2) "Claimant" means a mortgage applicant making or seeking to make a claim on the recovery fund in accordance with Finance Code §156.504.

(3) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts an originator in response to a solicitation) to obtain a residential mortgage loan, and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application as provided by paragraph (1) of this section.

(6) "Originator" has the meaning assigned by Finance Code §180.002 in defining the term "residential mortgage loan originator."

(7) "Recovery fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code §13.016 and Chapter 156, Subchapter F.

(8) "Residential mortgage loan" has the meaning assigned by Finance Code §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a dwelling, but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as residence.

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

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SUBCHAPTER E. MORTGAGE GRANT FUND

7 TAC §§51.400 - 51.405

Statutory Authority

The rules are adopted under the authority of: Finance Code §156.102(a), authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing Act; and Finance Code §156.556, authorizing the commission to adopt rules to administer Finance Code Chapter 156, Subchapter G, Mortgage Grant Fund, including rules to: (i) ensure that a grant awarded from the mortgage grant fund, administered by the department's commissioner under Finance Code Chapter G (mortgage grant fund), is used for a public purpose; and (ii) provide a means of recovering money awarded from the mortgage grant fund that is not used for a public purpose.

The adopted rules affect the statutes contained in Finance Code Chapter 156.

*§51.400. Purpose and Applicability.*

The rules contained in 7 TAC Chapter 51, Subchapter E govern the Commissioner's administration of the Mortgage Grant Fund as provided by Finance Code Chapter 156, Subchapter G other than claims made against the Mortgage Grant Fund in accordance with Finance Code §156.555 which are governed by the rules contained in 7 TAC Chapter 51, Subchapter F (relating to Mortgage Grant Fund: Recovery Claims for Unlicensed Activity).

*§51.401. Definitions.*

The following terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) "Auxiliary mortgage loan activity company" has the meaning assigned by Finance Code §156.002.

(2) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(3) "Department" means the Department of Savings and Mortgage Lending.

(4) "Finance Commission" means the Finance Commission of Texas.

(5) "Grant Coordinator" means the individual appointed as the Grant Coordinator for purposes of §51.403 of this title (relating to Grant Coordinator).

(6) "Mortgage Grant Advisory Committee" or "MGAC" means the Mortgage Grant Advisory Committee formed to advise the Commissioner concerning administration of the fund, as provided by §51.404 of this title (relating to Mortgage Grant Advisory Committee).

(7) "Mortgage Grant Administration Manual" means the manual created by the Commissioner to reflect the various policies and procedures governing administration of the Mortgage Grant Fund grant program as provided by §51.402 of this title (relating to Commissioner as Manager).

(8) "Mortgage Grant Fund" or "fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code Chapter 156, Subchapter G.

*§51.403. Grant Coordinator.*

The Commissioner may appoint an employee of the Department to serve as grant coordinator to assist the Commissioner in discharging

his or her duties related to the fund. The Grant Coordinator serves under the direction of the Commissioner and acts as liaison between grantees and the Mortgage Grant Advisory Committee. The Commissioner may delegate any authority of the Commissioner to act as manager of the fund to the Grant Coordinator, including any specific duties listed under Finance Code §156.553 except the authority to appear at hearings or judicial proceedings related to the fund.

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

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Department of Savings and Mortgage Lending

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## SUBCHAPTER F. MORTGAGE GRANT FUND: RECOVERY CLAIMS FOR UNLICENSED ACTIVITY

### 7 TAC §§51.500 - 51.506

#### Statutory Authority

The rules are adopted under the authority of: Finance Code §156.102(a), authorizing the commission to adopt and enforce rules necessary for the intent of or to ensure compliance with Finance Code Chapter 156, the Residential Mortgage Loan Company Licensing Act; and Finance Code §156.556, authorizing the commission to adopt rules to administer Finance Code Chapter 156, Subchapter G, Mortgage Grant Fund, including rules to: (i) ensure that a grant awarded from the mortgage grant fund, administered by the department's commissioner under Finance Code Chapter G (mortgage grant fund), is used for a public purpose; and (ii) provide a means of recovering money awarded from the mortgage grant fund that is not used for a public purpose.

The adopted rules affect the statutes contained in Finance Code Chapter 156.

#### §51.500. *Purpose and Applicability.*

The rules contained in 7 TAC Chapter 51, subchapter F govern the Commissioner's administration of Finance Code §156.555, allowing for claims to be made against the Mortgage Grant Fund to compensate persons for actual out-of-pocket damages incurred because of fraud committed by an individual who acted as a residential mortgage loan originator but who did not hold the required license issued under Finance Code Chapter 157.

#### §51.501. *Definitions.*

The following terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) "Application" means a request, in any form, for an offer (or a response to a solicitation for an offer) of residential mortgage loan terms, and the information about the mortgage applicant that is customary or necessary in a decision on whether to make such an offer, including, but not limited to, a mortgage applicant's name, income,

social security number to obtain a credit report, property address, an estimate of the value of the real estate, and/or the mortgage loan amount.

(2) "Claimant" means a mortgage applicant making or seeking to make a claim on the Mortgage Grant Fund in accordance with Finance Code §156.555.

(3) "Commissioner" means the Savings and Mortgage Lending Commissioner appointed under Finance Code Chapter 13.

(4) "Department" means the Department of Savings and Mortgage Lending.

(5) "Mortgage applicant" means an applicant for a residential mortgage loan or a person who is solicited (or contacts an originator or an individual acting or attempting to act in the capacity of an originator in response to a solicitation) to obtain a residential mortgage loan, and includes a person who has not completed or started completing a formal loan application on the appropriate form (e.g., Fannie Mae's Form 1003 Uniform Residential Loan Application), but has submitted financial information constituting an application as provided by paragraph (1) of this section.

(6) "Mortgage Grant Fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code Chapter 156, Subchapter G.

(7) "Originator" has the meaning assigned by Finance Code §180.002 in defining the term "residential mortgage loan originator."

(8) "Recovery fund" means the fund the Commissioner is required to establish, administer, and maintain in accordance with Finance Code §13.016 and Finance Code Chapter 56, Subchapter F.

(9) "Residential mortgage loan" has the meaning assigned by Finance Code §180.002 and includes new loans and renewals, extensions, modifications, and rearrangements of such loans. The term does not include a loan which is secured by a structure that is suitable for occupancy as a dwelling, but is used for a commercial purpose such as a professional office, salon, or other non-residential use, and is not used as residence.

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

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For further information, please call: (512) 475-1535



## CHAPTER 52. CHARTER APPLICATIONS

The Finance Commission of Texas (commission), on behalf of the Department of Savings and Mortgage Lending (department), adopts the repeal of all preexisting rules in 7 TAC Chapter 52, as follows: §§52.10 - 52.13, 52.20, 52.30, 52.100 - 52.104, 52.200 - 52.205, and 52.300 - 52.306. The commission further adopts new rules in 7 TAC Chapter 52, as follows: §§52.1 - 52.15. The commission's proposal was published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2631). The rules are adopted

without changes to the proposed text as published in the *Texas Register* and will not be republished.

#### Explanation of and Justification for the Rules

#### *Changes Concerning the Relocation (Swapping) of 7 TAC Chapters 51 and 52*

The department's preexisting rules in 7 TAC Chapters 51, 53, 57, 61, 64, 65, 67, 69, 71, and 73 implement Finance Code Title 3, Subtitle B, Savings and Loan Associations, and affect savings and loan associations regulated by the department. The department's preexisting rules in 7 TAC Chapter 52, Department Administration, concern the administrative processes and procedures of the Department, and are therefore located among the rule chapters concerning savings and loan associations which may tend to create confusion for the reader. The department further asserts that 7 TAC Chapter 51 - the first rule chapter assigned to the department - is a more appropriate chapter for the department's rules concerning its administrative processes and procedures to reside. As a result, the department has determined it should relocate the preexisting rules in 7 TAC Chapters 51 and 52 by essentially swapping the rules in such chapters. Specifically, the adopted rules (i) repeal the preexisting rules in 7 TAC Chapter 52 and insert new rules largely patterned after the preexisting rules in 7 TAC Chapter 51; and (ii) rename 7 TAC Chapter 52 to reflect the new rules inserted in such chapter.

#### *Other Modernization and Update Changes.*

The adopted rules make changes to modernize and update the rules including: adding and replacing language for clarity and to improve readability; removing unnecessary or duplicative provisions; and updating terminology.

#### Summary of Public Comments

Publication of the commission's proposal for the rules recited a deadline of 30 days to receive public comments, or June 5, 2022. A public hearing in accordance with Government Code §2001.029 was not required. No comments were received.

#### **7 TAC §§52.1 - 52.15**

##### Statutory Authority

The rules are adopted under the authority of: Finance Code §11.302(a), authorizing the commission to adopt rules applicable to state savings associations (savings and loan associations); Finance Code §62.001, authorizing the commission to adopt rules concerning the information required in an application for a savings and loan association charter; and Finance Code §66.002(3), authorizing the commission to adopt rules concerning the procedures for processing, hearing, and deciding applications filed with the department's commissioner relating to the operation of a savings and loan association.

The adopted rules affect the statutes contained in Finance Code Title 3, Subtitle B.

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

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Deputy General Counsel

Department of Savings and Mortgage Lending

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For further information, please call: (512) 475-1535



## CHAPTER 52. DEPARTMENT ADMINISTRATION

### SUBCHAPTER A. COMPLAINTS

#### **7 TAC §§52.10 - 52.13**

##### Statutory Authority

The rule repeals are adopted under the authority of: Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The adopted rule repeals affect the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

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

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### SUBCHAPTER B. HEARINGS AND APPEALS

#### **7 TAC §52.20**

##### Statutory Authority

The rule repeal is adopted under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The adopted rule repeal affects the statutes contained in Finance Code: Title 3, Subtitles B and C; and Chapters 13, 156, 157, 158, 159, and 180.

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

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## SUBCHAPTER C. ADVISORY COMMITTEES

### 7 TAC §52.30

#### Statutory Authority

The rule repeal is adopted under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The adopted rule repeal affects the statutes contained in Finance Code §§13.018, 156.104, and 157.0024.

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

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## SUBCHAPTER D. RECOVERY FUND

### 7 TAC §§52.100 - 52.104

#### Statutory Authority

The rule repeals are adopted under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The adopted rule repeals affect the statutes contained in Finance Code Chapter 156.

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

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## SUBCHAPTER E. MORTGAGE GRANT FUND

### 7 TAC §§52.200 - 52.205

#### Statutory Authority

The rule repeals are adopted under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The adopted rule repeals affect the statutes contained in Finance Code Chapter 156.

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

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## SUBCHAPTER F. MORTGAGE GRANT FUND: RECOVERY CLAIMS FOR UNLICENSED ACTIVITY

### 7 TAC §§52.300 - 52.306

#### Statutory Authority

The rule repeals are adopted under the authority of Government Code §2001.004(1), requiring a state agency to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The adopted rule repeals affect the statutes contained in Finance Code Chapter 156.

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## PART 5. OFFICE OF CONSUMER CREDIT COMMISSIONER

### CHAPTER 82. ADMINISTRATION

#### 7 TAC §82.2

The Finance Commission of Texas (commission) adopts amendments to §82.2 (relating to Public Information Requests; Charges) in 7 TAC, Chapter 82, concerning Administration.

The commission adopts the amendments to §82.2 without changes to the proposed text as published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2635). The rule will not be republished.

The commission received no official comments on the proposed amendments.

In general, the purpose of rule changes to 7 TAC Chapter 82 are to implement recent legislative amendments to Texas Transportation Code, Chapter 730, and to provide clarity to public information requestors about the agency's response to requests for motor vehicle records.

In 2021, the Texas Legislature enacted SB 15 (the Texas Consumer Privacy Act Phase I). SB 15 amended Texas Transportation Code, Chapter 730 (the Motor Vehicle Records Disclosure Act), which governs the disclosure of motor vehicle records by state agencies. In particular, SB 15 added new Texas Transportation Code, §730.0121, stating: "An agency by rule shall require a requestor to delete from the requestor's records personal information received from the agency under this chapter if the requestor becomes aware that the requestor is not an authorized recipient of that information."

The adopted amendments to §82.2 implement SB 15 and describe how the OCCC handles requests for motor vehicle records. In subsection (a), amendments add definitions of "Motor vehicle record" and "Personal information in a motor vehicle record." These definitions are consistent with existing definitions in Texas Transportation Code, Chapter 730, and are intended to provide clarity to public information requestors. The amendments also add a new subsection (g) to §82.2 describing requests for motor vehicle records. The new subsection explains that personal information in a motor vehicle record may be disclosed only to an authorized person described by Texas Transportation Code, Chapter 730. The new subsection also requires a requestor who learns that the requestor is not an authorized recipient of personal information in a motor vehicle record to delete the information from the requestor's records. The new subsection ensures consistency with new Texas Transportation Code, §730.0121 (as added by SB 15).

The rule changes are adopted under Texas Transportation Code, §730.014 and §730.0121, which authorize state agencies to adopt rules to implement and administer requirements for the disclosure of motor vehicle records. In addition, Texas Government Code, §552.230 authorizes governmental bodies to adopt reasonable rules of procedure under which public information may be inspected and copied.

The statutory provisions affected by the adoption are contained in Texas Transportation Code, Chapter 730.

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

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TRD-202202356

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## PART 8. JOINT FINANCIAL REGULATORY AGENCIES

### CHAPTER 153. HOME EQUITY LENDING

#### 7 TAC §153.1

The Finance Commission of Texas and the Texas Credit Union Commission ("commissions") adopts amendments to §153.1 (relating to Definitions) in 7 TAC, Chapter 153, concerning Home Equity Lending.

The commissions adopt the amendments to §153.1 without changes to the proposed text as published in the March 25, 2022, issue of the *Texas Register* (47 TexReg 1556). The rule will not be republished.

7 TAC Chapter 153 contains the commissions' interpretations of the home equity lending provisions of Texas Constitution, Article XVI, Section 50 ("Section 50"). In general, the purposes of the rule changes to 7 TAC Chapter 153 are: (1) to amend the definition of "business day" to ensure that the definition appropriately excludes legal public holidays, reflects the common understanding of "business day" in the context of mortgage loan disclosures, and is consistent with similar definitions under federal law, and (2) to make technical corrections to ensure consistency in the text of other definitions.

The interpretations in 7 TAC Chapter 153 are administered by the Joint Financial Regulatory Agencies ("agencies"), consisting of the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner, and Texas Credit Union Department. The agencies distributed an early precomment draft of proposed changes to interested stakeholders for review, and then held an online webinar regarding the proposed changes. The agencies received informal verbal feedback from stakeholders during the webinar, and received one written precomment on the rule text draft. The agencies appreciate the thoughtful input provided by stakeholders.

The adoption amends the definition of "business day" in §153.1(2). The term "business day" is used in Section 50(a)(6)(M)(ii) and Section 50(f)(2)(D). Under Section 50(a)(6)(M)(ii), the lender must provide a preclosing disclosure to the owner at least one business day before the closing of a home equity loan. Under Section 50(f)(2)(D), when a lender refinances a home equity loan into a non-home-equity loan, the lender must provide a refinance disclosure within three business days after the homeowner submits a loan application.

The adopted amendments to §153.1(2) contain three definitions of "business day." First, for purposes of 7 TAC §153.13 (relating Preclosing Disclosures: Section 50(a)(6)(M)(ii)), the adoption states that a business day is a calendar day except for Sunday or a legal public holiday described by federal law. This is similar to the previous definition of "business day" in §153.1(2), but adds Juneteenth National Independence Day as a listed hol-

iday. In 2021, federal law was amended to add Juneteenth as a legal public holiday. Juneteenth National Independence Day Act, Pub. L. No. 117-17, 135 Stat. 287 (2021) (codified at 5 U.S.C. §6103(a)). The adoption also adds a reference to the federal law listing legal public holidays at 5 U.S.C. §6103(a) (in case this section is amended to describe additional holidays in the future). Second, for purposes of 7 TAC §153.45 (relating to Refinance of an Equity Loan: Section 50(f)), the adoption amends §153.1(2) to state that a business day is a day on which the lender's offices are open to the public for carrying on substantially all of its business functions. Third, for purposes of 7 TAC §153.25 (relating to Right of Rescission: Section 50(a)(6)(Q)(viii)), the adoption states that a business day has the meaning provided by Regulation Z, 12 C.F.R. §1026.2(a)(6) that applies for purposes of rescission.

These definitions are based on the definitions of "business day" that currently apply to mortgage disclosures under federal law, as well as regulatory commentary on those definitions. Federal Regulation Z, 12 C.F.R. part 1026, requires a lender to provide several disclosures to a borrower in connection with a mortgage loan. The two definitions of "business day" are listed in Regulation Z, 12 C.F.R. §1026.2(a)(6). One of these definitions provides that a business day is a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions. The other definition provides that a business day is any calendar day except Sundays and legal public holidays listed in federal law. In its official commentary to Regulation Z, the Consumer Financial Protection Bureau (CFPB) refers to these two definitions as the "business function test" and the "more precise rule," respectively. Official Interpretations of Regulation Z, 12 C.F.R. pt. 1026, supp. I, para. 2(a)(6). Each definition applies to a different set of deadlines and timing requirements under Regulation Z. For example, the business function test applies for purposes of the requirement to provide an early disclosure within three business days after a creditor receives the consumer's application (as provided by 12 C.F.R. §1026.18(e)(1)(iii)(A)). The more precise rule applies for purposes of the requirement to provide final disclosures at least three days before closing (as provided by 12 C.F.R. §1026.18(f)(1)(ii)(A)), as well as the consumer's right to rescind certain mortgage loans within three business days after consummation (as provided by 12 C.F.R. §1026.23(a)(2)). The CFPB analyzed how these definitions apply to Juneteenth in an interpretive rule issued in August 2021. Consumer Financial Protection Bureau, Impact of the 2021 Juneteenth Holiday on Certain Closed-End Mortgage Requirements, 86 Fed. Reg. 44,267 (2021).

The changes to the definition of "business day" respond to an informal comment that the agencies received from an industry attorney in August 2021. This attorney recommended adding a reference to Juneteenth in §153.1(2), and recommended consistency with Regulation Z's definitions of "business day."

During the online webinar on the precomment draft of the amendments, a second industry attorney expressed general support for the amendments, agreeing that the amendments reflected her members' understanding of what a business day is. This attorney requested additional clarity regarding observed holidays (such as holidays observed on the Monday following a holiday). In response to this verbal comment, the adopted amendment at §153.1(2)(A) includes guidance on observed holidays, based on the CFPB's commentary to Regulation Z, 12 C.F.R. pt. 1026, supp. I, para. 2(a)(6)1.

A third industry attorney (who works for a company that prepares closing documents for Texas mortgage lenders) submitted a written precomment expressing general support for the amendments. This attorney stated: "We believe the proposed amendments are a positive step in aligning the Texas and federal business day definitions. . . . We believe the draft amendments are appropriate and consistent with the Texas Constitution. In the context of mortgage loan disclosures, the term 'business day' has multiple meanings that are set out in Regulation Z. The term obviously has differing meanings depending on the context and type of disclosure. . . ." The attorney explained that the proposed amendments would lead to fewer mistakes that may result from lenders manually providing Texas disclosures that do not align with their automated loan origination systems. The attorney also recommended replacing the list of holidays in §153.1(2)(A) with a single reference to federal law. The agencies considered this approach, but believe that the list of holidays helps the reader quickly understand the definition without having to refer to a separate legal source.

Based on these comments from stakeholders, the agencies believe that the adopted definitions reflect the common understanding of the term "business day" in the context of disclosures for mortgage loans. The definitions also have practical benefits. For example, by aligning the definition in §153.1(2) with Regulation Z, the adoption allows a lender to send the constitutionally required refinance disclosure on the same date it sends the federally required early disclosure. Also, the adoption allows a lender additional time to provide the refinance disclosure if its offices are closed for business functions due to an emergency (such as a pandemic or storm).

Other changes throughout §153.1 make technical corrections to ensure consistency of formatting and capitalization. The changes to capitalization are based on feedback from staff of the *Texas Register*.

The commissions received no official comments on the proposal.

The rule changes are adopted under Texas Finance Code, §11.308 and §15.413, which authorize the commissions to issue interpretations of Texas Constitution, Article XVI, §50(a)(5) - (7), (e) - (p), (t), and (u), subject to Texas Government Code, Chapter 2001.

The constitutional provisions affected by the adoption are contained in Texas Constitution, Article XVI, §50. No statute is affected by this adoption.

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

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Joint Financial Regulatory Agencies

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For further information, please call: (512) 936-7660



## TITLE 10. COMMUNITY DEVELOPMENT

## PART 5. OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM OFFICE

### CHAPTER 190. GOVERNOR'S UNIVERSITY RESEARCH INITIATIVE GRANT PROGRAM

The following rulemaking covers 10 TAC §§190.1 - 190.4, 190.6 - 190.8, 190.10, 190.11, 190.13, 190.14, 190.20 - 190.25, 190.28, 190.32, 190.36, and 190.38.

The Office of the Governor ("OOG") adopts amendments to 10 TAC §190.1, concerning Definitions; §190.2, concerning Authority and Purpose; §190.3, concerning Construction of Rules; §190.4, concerning Source of Funds; §190.6, concerning Funding Levels and Withholding of Funds; §190.7, concerning Match; §190.8, concerning Compliance with Other Standards; §190.10, concerning Purpose of the Governor's University Research Initiative Advisory Board; §190.11, concerning Advisory Board Meetings; §190.13, concerning Conflicts of Interest; §190.14, concerning Communications between the Advisory Board and Applicants, Distinguished Researchers and Others; §190.20, concerning Application Process; §190.21, concerning GURI Eligible Applicants; §190.22, concerning Ineligible Recruiting Activities; §190.23, concerning Application Form; §190.24, concerning Initial Screening; Evaluation and Review Process; §190.25, concerning Grant Award Recommendations and Decisions; §190.28, concerning Grant Agreement; §190.32, concerning Professional and Consultant; §190.36, concerning Construction, and §190.38, concerning Unallowable Costs. These rules are adopted without change to the proposed text published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2638). The rules will not be republished.

#### REASONED JUSTIFICATION OF ADOPTED AMENDMENTS

The adopted amendments are necessary to expand the types of national academic recognitions that are considered to be highly prestigious for purposes of determining who qualifies as a "Distinguished researcher"; reflect the addition of Section 62.169 of the Education Code by Senate Bill 1525, 87th Legislature, Regular Session; reflect the repeal of Subchapter H, Chapter 62 of the Education Code, as added by Chapter 448, Acts of the 84th Legislature, Regular Session, by Senate Bill 1525, 87th Legislature, Regular Session; update references to relevant guidelines; and improve readability and clarity.

#### SUMMARY OF COMMENTS AND AGENCY RESPONSE:

Comment: The Office of the Governor, Economic Development and Tourism Office ("Office") received one comment from an interested party in response to the proposed amendments. The commenter suggested that the Office only use examples of honor societies rather than provide an exhaustive list. The commenter also suggested the Office not exclude foreign awards and honor societies.

Response: The Office thanks the commenter for the input. The Office has considered the comment and determined it would not make changes to the proposed rules. The Texas Legislature directed the Office to consult with the Texas Higher Education Coordinating Board ("THECB") to determine the awards and honor societies whose recipients or members are eligible for GURI. After consultation with THECB, the Office determined it would rely upon a list developed by THECB that specifies awards and honor societies attained by faculty that are considered for determining

an academic teaching institution's eligibility under the National Research University Fund ("NRUF"). THECB's list, which includes certain foreign awards and honor societies, was developed through negotiated rulemaking and significantly expands the pool of GURI-eligible researchers. Additionally, aligning the eligibility criteria between NRUF and GURI will achieve the desirable result of providing consistent and clear goals and guidance for the State's institutions of higher education.

#### TAKINGS IMPACT ASSESSMENT

The OOG has determined that no private real property interests are affected by the adopted rules and the rules do not restrict, limit, or impose a burden on an owner's rights to the owner's private real property that would otherwise exist in the absence of government action. As a result, the adopted amendments do not constitute a taking or require a takings impact assessment under Government Code §2007.043.

### SUBCHAPTER A. DEFINITIONS AND GENERAL PROVISIONS

#### 10 TAC §§190.1 - 190.4, 190.6 - 190.8

##### STATUTORY AUTHORITY

The amendments are adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

##### CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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

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Terry Zrubek

Director, EDT Finance

Office of the Governor, Economic Development and Tourism Office

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### SUBCHAPTER B. GOVERNOR'S UNIVERSITY RESEARCH INITIATIVE ADVISORY BOARD

#### 10 TAC §§190.10, 190.11, 190.13, 190.14

##### STATUTORY AUTHORITY

The amendments are adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

##### CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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## SUBCHAPTER C. APPLICATION, REVIEW AND AWARD PROCESS

### 10 TAC §§190.20 - 190.25, 190.28

#### STATUTORY AUTHORITY

The amendments are adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

#### CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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

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## SUBCHAPTER D. GRANT BUDGET REQUIREMENTS

### 10 TAC §§190.32, 190.36, 190.38

#### STATUTORY AUTHORITY

The amendments are adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

#### CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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## CHAPTER 190. GOVERNOR'S UNIVERSITY RESEARCH INITIATIVE GRANT PROGRAM

The Office of the Governor ("OOG") adopts the repeal of 10 TAC §§190.12, 190.29, and 190.40 - 190.53, and 190.55 - 190.58. The repeal of §§190.12, 190.29, and 190.40 - 190.53, and 190.55 - 190.58 is adopted without changes to the text as published in the May 6, 2022, issue of the *Texas Register* (47 TexReg 2638). The repealed rules will not be republished.

#### REASONED JUSTIFICATION OF ADOPTED REPEALS

The repeals are necessary due to the repeal of Subchapter H, Chapter 62 of the Education Code, as added by Chapter 448, Acts of the 84th Legislature, Regular Session, by Senate Bill 1525, 87th Legislature, Regular Session and to simplify the Chapter by removing provisions that are more appropriately determined by agency guidelines or specified in agreements with grantees.

#### SUMMARY OF COMMENTS AND AGENCY RESPONSE:

The OOG did not receive any comments on the proposed repeals.

## SUBCHAPTER B. GOVERNOR'S UNIVERSITY RESEARCH INITIATIVE ADVISORY BOARD

### 10 TAC §190.12

#### STATUTORY AUTHORITY

This repeal is adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

#### CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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

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SUBCHAPTER C. APPLICATION, REVIEW  
AND AWARD PROCESS

**10 TAC §190.29**

STATUTORY AUTHORITY

This repeal is adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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

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SUBCHAPTER E. ADMINISTERING GRANTS

**10 TAC §§190.40 - 190.53**

STATUTORY AUTHORITY

The repeals are adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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

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SUBCHAPTER F. PROGRAM ADMINISTRATION AND AUDIT

**10 TAC §§190.55 - 190.58**

STATUTORY AUTHORITY

The repeals are adopted under section 62.162 of the Texas Education Code, which authorizes the Texas Economic Development and Tourism Office, in consultation with the Texas Higher Education Coordinating Board, to adopt rules necessary to administer GURI.

CROSS REFERENCE TO STATUTE

Chapter 62 of the Texas Education Code.

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**TITLE 31. NATURAL RESOURCES AND  
CONSERVATION**

**PART 2. TEXAS PARKS AND  
WILDLIFE DEPARTMENT**

**CHAPTER 57. FISHERIES**

The Texas Parks and Wildlife Commission in a duly noticed meeting on March 24, 2022, adopted amendments to 31 TAC §§57.973, 57.974, 57.981, 57.992, and 57.1000, concerning the Statewide Recreational and Commercial Fishing Proclamation. The amendment to §57.981 is adopted with changes to the proposed text as published in the February 18, 2022, issue of the *Texas Register* (47 TexReg 730). This rule will be republished. The amendments to §§57.973, 57.974, 57.992, and 57.1000 are adopted without changes and will not be republished.

The change to §57.981, concerning Bag, Possession, and Length Limits, alters subsection (d)(1)(C)(iii) to eliminate potential ambiguity regarding the measurement of minimum length. As proposed, the provision prohibited the retention of largemouth bass "greater than 16 inches in length," which the department has determined could be confusing. The change rewords the provision to prohibit the retention of largemouth bass of "16 inches or greater in length."

The amendment to §57.973, concerning Devices, Means and Methods, rephrases a provision concerning sail lines in subsection (g)(15)(l). The provision as currently worded could be construed as to prohibit the use of a sail line at any time by a person who holds a commercial fishing license. The department has determined that the intent of the rule is to prohibit the use of sail lines for commercial purposes, not to prevent a commercial license holder from employing a sail line while fishing under a recreational license for personal non-commercial use.

The amendment to §57.974, concerning Reservoir Boundaries, adds boundary descriptions for two reservoirs (Lake Texoma and

Sam Rayburn Reservoir), which is necessary to provide exact descriptions of the geographical areas to which harvest restrictions on those water bodies apply.

The amendment to §57.981, concerning Bag, Possession, and Length Limits, consists of several actions.

The amendment alters the species information with respect to striped bass in subsections (c)(5)(B)(iv) and (d)(1)(D) to remove references to white bass and subspecies. The department has determined that the change more accurately represents the intent of the rules.

The amendment to §57.981 also expands the boundaries of the area on the Oklahoma/Texas border in which the take of alligator gar is prohibited during spawning season (the month of May). Oklahoma now prohibits the take of alligator gar during the month of May on a statewide basis. The intent of the amendment is to harmonize Texas regulations for gar harvest with those in Oklahoma to mitigate to the extent possible any conflicts that could result in angler confusion and issues related to compliance and enforcement on boundary waters. The amendment prohibits the take of alligator gar from, and the possession of alligator gar while on, the Red River (including Lake Texoma) and all tributaries that drain directly or indirectly to the Red River on the Texas/Oklahoma border, in Cooke, Grayson, Fannin, Lamar, Red River, and Bowie counties during the month of May.

The amendment to §57.981 also eliminates the exception to statewide harvest standards for walleye on Lake Texoma. Walleye have not been stocked in the lake since 1977, a self-sustaining population does not exist, and the department has determined that a viable sport fishery for walleye is infeasible; therefore, the management exception is no longer needed.

Additionally, the amendment to §57.981 alters subsection (d)(1)(C)(iii) to implement harvest rules for largemouth bass on Bois d'Arc Lake in Fannin County. Bois d'Arc Lake is a new impoundment and the department has determined that preservation of the largest, fastest growing largemouth bass in the new reservoir is an appropriate management strategy that will eventually maximize the quality of fishing over the lifespan of the reservoir. The amendment imposes a 16-inch maximum length limit and create exceptions for temporary possession of 24-inch largemouth bass for submission to the department's ShareLunker program. The amendment also corrects an error affecting largemouth bass harvest regulations on the nine water bodies also subject to the provisions of clause (iii). An external administrative error during the rulemaking process in 2020 inadvertently resulted in incorrect largemouth bass harvest regulations being indicated in the Texas Administrative Code for the affected waterbodies. The error has since been rectified on a temporary basis by the adoption of new §57.985, which will be repealed at a later date. The amendment re-establishes a maximum length limit of 16 inches with a special provision for the temporary possession of largemouth bass 24 inches and larger for possible donation to the ShareLunker program.

The amendment to §57.981 also makes a nonsubstantive clarification in subsection (d)(1)(G) to identify all the counties encompassed by Sam Rayburn Reservoir.

Finally, the amendment to §57.981 eliminates an exception to the statewide harvest regulations for red drum on Coletto Creek Reservoir in Goliad and Victoria counties and on Lake Fairfield in Freestone County. Red drum have not been stocked by the department in those reservoirs in over ten years and surveys indi-

cate red drum are no longer present, from which the department has concluded that red drum as a sport fishery is unsustainable.

The amendment to §57.992, concerning Bag, Possession, and Length Limits, alters regulations for the commercial take of alligator gar on Lake Texoma, for the reasons set forth earlier in the discussion of the amendment to §57.981 concerning recreational harvest of alligator gar on Lake Texoma. Additionally, the amendment clarifies subsection (b)(4)(B) to identify all the counties encompassed by Sam Rayburn Reservoir.

The amendment to §57.1000, concerning Prohibited Transport of Live Nongame Fish, adds tributaries of the Red River in Grayson, Fannin, Lamar, Red River, and Bowie counties to the list of designated waters from which the transport of live nongame fish is prohibited. The amendment is intended to prevent the spread of invasive carp species to additional Texas waters as a result of being transported live for use as bait. Invasive carp pose an existential threat to native fish populations and can be a potential hazard for boaters. Silver and bighead carp have been documented in the affected waters; therefore, the department believes it is prudent to act now to mitigate against future spread to additional water bodies.

The department received no comments opposing adoption of the proposed amendment to §57.973, concerning Devices, Means and Methods.

The department received no comments supporting adoption of the proposed amendment.

The department received two comments opposing adoption of the portion of the proposed amendment to §57.974 that created a specific regulatory boundary for Sam Rayburn Reservoir. Neither commenter provided a reason or rationale for opposing adoption. No changes were made as a result of the comments.

The department received 11 comments supporting adoption of the amendment as proposed.

The department received one comment opposing adoption of the portion of the proposed amendment to §57.974 that created a specific regulatory boundary affecting Lake Texoma. No changes were made as a result of the comment.

The department received 10 comments supporting adoption of the amendment as proposed.

The department received three comments opposing adoption of the portion of the proposed amendments to §57.981 and §57.992 that established harvest regulations for alligator gar in portions of the Red River drainage basin. Of the three comments, one provided a reason or rationale for opposing adoption. The commenter stated that there is no shortage of alligator gar. The department agrees with the comment to the extent that alligator gar populations are stable and sustainable in those waters and responds that, as explained in the preamble for the proposed amendment, the intent of the regulation is to harmonize harvest regulations for gar in the Texas portion of shared waters with those in effect in the Oklahoma portion of those waters and is intended to prevent angler confusion, not to address population concerns. No changes were made as a result of the comment.

The department received 10 comments supporting adoption of the amendment as proposed.

The department received no comments opposing adoption of the portion of the proposed amendment to §57.983 that established harvest regulations for largemouth bass on Lake Bois d'Arc.

The department received 12 comments supporting adoption of the amendment as proposed.

The department received one comment opposing adoption of the portion of the proposed amendment to §57.983 that eliminated exceptions to the statewide harvest standard for red drum on Lakes Braunig, Calaveras, and Fairfield. The commenter did not provide a reason or rationale for opposing adoption. No changes were made as a result of the comment.

The department received 11 comments supporting adoption of the amendment as proposed.

The department received one comment opposing adoption of the portion of the proposed amendment to §57.983 affecting walleye harvest regulations on Lake Texoma. The commenter stated that retention of walleye should be prohibited if the goal is population increase. The department disagrees with the comment and responds that, as explained in the preamble of the proposed rule, a viable sport fishery for walleye in Lake Texoma has not existed for many years; thus, harvest regulations are superfluous. No changes were made as a result of the comment.

The department received seven comments supporting adoption of the amendment as proposed.

The department received two comments opposing adoption of the portion of the proposed amendment to §57.1000 affecting possession of live bait fish in certain waters. One commenter provided a reason or rationale for opposing adoption, stating that it should be illegal to place a live carp in public water. The department agrees with the comment and responds that it is. No changes were made as a result of the comments.

The department received 11 comments supporting adoption of the amendment as proposed.

## SUBCHAPTER N. STATEWIDE RECREATIONAL AND COMMERCIAL FISHING PROCLAMATION

### DIVISION 1. GENERAL PROVISIONS

#### 31 TAC §57.973, §57.974

The amendments are adopted under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

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

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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Proposal publication date: February 18, 2022

For further information, please call: (512) 389-4775



## DIVISION 2. STATEWIDE RECREATIONAL FISHING PROCLAMATION

### 31 TAC §57.981

The amendment is adopted under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

#### §57.981. Bag, Possession, and Length Limits.

(a) For all wildlife resources taken for personal consumption and for which there is a possession limit, the possession limit shall not apply after the wildlife resource has reached the possessor's residence and is finally processed.

(b) The possession limit does not apply to fish in the possession of or stored by a person who has an invoice or sales ticket showing the name and address of the seller, number of fish by species, date of the sale, and other information required on a sales ticket or invoice.

(c) There are no bag, possession, or length limits on game or non-game fish, except as provided in this subchapter.

(1) Possession limits are twice the daily bag limit on game and non-game fish except as otherwise provided in this subchapter.

(2) For flounder, the possession limit is the daily bag limit.

(3) The bag limit for a guided fishing party is equal to the total number of persons in the boat licensed to fish or otherwise exempt from holding a license minus each fishing guide and fishing guide deck-hand multiplied by the bag limit for each species harvested.

(4) A person may give, leave, receive, or possess any species of legally taken wildlife resource, or a part of the resource, that is required to have a tag or permit attached or is protected by a bag or possession limit, if the wildlife resource is accompanied by a wildlife resource document (WRD) from the person who took the wildlife resource, provided the person is in compliance with all other applicable provisions of this subchapter and the Parks and Wildlife Code. The properly executed WRD document shall accompany the wildlife resource until it reaches the possessor's residence and is finally processed. The WRD must contain the following information:

(A) the name, signature, address, and fishing license number, as required of the person who killed or caught the wildlife resource;

(B) the name of the person receiving the wildlife resource;

(C) a description of the wildlife resource (number and type of species or parts); and

(D) the location where the wildlife resource was killed or caught (name of ranch; area; lake, bay or stream; and county).

(5) Except as provided in subsection (d) of this section, the statewide daily bag and length limits shall be as follows.

(A) Amberjack, greater.

(i) Daily bag limit: 1.

(ii) Minimum length limit: 38 inches.

(iii) Maximum length limit: No limit.

(B) Bass:

(i) The daily bag limit for largemouth, smallmouth, spotted, Alabama, and Guadalupe is 5, in any combination.

(ii) Alabama, Guadalupe, and spotted.

(I) No minimum length limit.

(II) No maximum length limit.

(iii) Largemouth and smallmouth.

(I) Minimum length limit: 14 inches.

(II) No maximum length limit.

(iv) Striped and their hybrids.

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: 18 inches.

(III) No maximum length limit.

(v) White.

(I) Daily bag limit: 25.

(II) Minimum length limit: 10 inches.

(III) No maximum length limit.

(C) Catfish:

(i) channel and blue (including hybrids and subspecies).

(I) Daily bag limit: 25 (in any combination).

(II) No minimum length limit.

(III) No maximum length limit.

(IV) It is unlawful to retain more than 10 channel and blue catfish, in the aggregate, of 20 inches or greater in length.

(ii) flathead.

(I) Daily bag limit: 5.

(II) Minimum length limit: 18 inches.

(III) No maximum length limit.

(iii) gafftopsail.

(I) No daily bag limit.

(II) Minimum length limit: 14 inches.

(III) No maximum length limit.

(D) Cobia.

(i) Daily bag limit: 2.

(ii) Minimum length limit: 40 inches.

(iii) No maximum length limit.

(E) Crappie, black and white (including hybrids and subspecies).

(i) Daily bag limit: 25.

(ii) Minimum length limit: 10 inches.

(iii) No maximum length limit.

(F) Drum, black.

(i) Daily bag limit: 5.

(ii) Minimum length limit: 14 inches.

(iii) Maximum length limit: 30 inches.

(iv) One black drum over 52 inches may be retained per day as part of the five-fish bag limit.

(G) Drum, red.

(i) Daily bag limit: 3.

(ii) Minimum length limit: 20 inches.

(iii) Maximum length limit: 28 inches.

(iv) During a license year, one red drum exceeding the maximum length limit established by this subparagraph may be retained when affixed with a properly executed Red Drum Tag, a properly executed Exempt Angler Red Drum Tag or with a properly executed Duplicate Exempt Red Drum Tag and one red drum over the stated maximum length limit may be retained when affixed with a properly executed Bonus Red Drum Tag. Any fish retained under authority of a Red Drum Tag, an Exempt Angler Red Drum Tag, a Duplicate Exempt Red Drum Tag, or a Bonus Red Drum Tag may be retained in addition to the daily bag and possession limit as provided in this section.

(v) A person who lawfully takes a red drum under a digital license issued under the provisions of §53.3(a)(12) this title (relating to Super Combination Hunting and Fishing License Packages) or under a lifetime license with the digital tagging option provided by §53.4(a)(1) of this title (relating to Lifetime Licenses) that exceeds the maximum length limit established by this subparagraph is exempt from any requirement of Parks and Wildlife Code or this subchapter regarding the use of license tags for that species; however, that person shall immediately upon take ensure that a harvest report is created and submitted via a mobile or web application provided by the department for that purpose. If the absence of data connectivity prevents the receipt of a confirmation number from the department following the report required by this subparagraph, the person who took the red drum is responsible for ensuring that the report required by this subparagraph is uploaded to the department immediately upon the availability of network connectivity.

(vi) It is an offense for any person to possess a red drum exceeding the maximum length established by this subparagraph under a digital license or digital tagging option without being in immediate physical possession of an electronic device that is:

(I) loaded with the mobile or web application designated by the department for harvest reporting under this subsection; and

(II) capable of uploading the harvest report required by this subsection.

(vii) A person who is fishing under a license identified in §53.4(a)(1) of this title and selected the fulfillment of physical

tags must comply with the tagging requirements of this chapter that are applicable to the tagging of red drum under a license that is not a digital license.

(H) Flounder: all species (including hybrids and subspecies).

- (i) Daily bag limit: 5.
- (ii) Minimum length limit: 15 inches.
- (iii) No maximum length limit.
- (iv) During November, lawful means are restricted to pole-and-line only and the bag and possession limit for flounder is two. For the first 14 days in December, the bag and possession limit is two, and flounder may be taken by any legal means. On September 1, 2021, the provisions of this clause cease effect.

(v) Beginning September 1, 2021, the season for flounder is closed from November 1 through December 14 every year.

(I) Gar, alligator.

- (i) Daily bag limit: 1.
- (ii) No minimum length limit.
- (iii) No maximum length limit.
- (iv) During May, no person shall take alligator gar from, or possess alligator gar while on, the Red River (including Lake Texoma) and all tributaries that drain directly or indirectly to the Red River on the Texas/Oklahoma border in Cooke, Grayson, Fannin, Lamar, Red River, and Bowie counties.

(v) Any person who takes an alligator gar in the public waters of this state other than Falcon International Reservoir shall report the harvest via the department's website or mobile application within 24 hours of take.

(vi) Between one half-hour after sunset and one half-hour before sunrise, any lawful means other than lawful archery equipment and crossbow may be used to take an alligator gar in the portion of the Trinity River described in subsection (d)(1)(L)(ii) of this section, except for persons selected for opportunity as provided in §57.972(j) of this title (relating to General Provisions).

(vii) Except for persons selected for opportunity as provided in §57.972(j) of this title, no person in the portion of the Trinity River described in subsection (d)(1)(L)(ii) of this section may take an alligator gar by means of lawful archery equipment or crossbow between one half-hour after sunset and one half-hour before sunrise, or possess an alligator gar taken by means of lawful archery equipment or crossbow between one half-hour after sunset and one half-hour before sunrise.

(J) Grouper.

- (i) Black.
  - (I) Daily bag limit: 4.
  - (II) Minimum length limit: 24 inches.
  - (III) No maximum length limit.
- (ii) Gag.
  - (I) Daily bag limit: 2.
  - (II) Minimum length limit: 24 inches.
  - (III) No maximum length limit.

(iii) Goliath. The take of Goliath grouper is prohibited.

(iv) Nassau. The take of Nassau grouper is prohibited.

(K) Mackerel.

- (i) King.
  - (I) Daily bag limit: 3.
  - (II) Minimum length limit: 27 inches.
  - (III) No maximum length limit.
- (ii) Spanish.
  - (I) Daily bag limit: 15.
  - (II) Minimum length limit: 14 inches.
  - (III) No maximum length limit.

(L) Marlin.

- (i) Blue.
  - (I) No daily bag limit.
  - (II) Minimum length limit: 131 inches.
  - (III) No maximum length limit.
- (ii) White.
  - (I) No daily bag limit.
  - (II) Minimum length limit: 86 inches.
  - (III) No maximum length limit.

(M) Mullet: all species (including hybrids, and subspecies).

- (i) No daily bag limit.
- (ii) No minimum length limit.
- (iii) From October through January, no mullet more than 12 inches in length may be taken from public waters or possessed on board a vessel.

(N) Sailfish.

- (i) No daily bag limit.
- (ii) Minimum length limit: 84 inches.
- (iii) No maximum length limit.

(O) Seatrout, spotted.

- (i) Daily bag limit: 5.
- (ii) Minimum length limit: 15 inches.
- (iii) Maximum length limit: 25 inches.
- (iv) Only one spotted seatrout greater than 25 inches may be retained per day. A spotted seatrout retained under this subclause counts as part of the daily bag and possession limit.

(P) Shark: all species (including hybrids and subspecies).

- (i) all species other than the species listed in clauses (ii) - (iv) of this subparagraph:
  - (I) Daily bag limit: 1.
  - (II) Minimum length limit: 64 inches.

(III) No maximum length limit.

(ii) Atlantic sharpnose, blacktip, and bonnethead:

(I) Daily bag limit: 1.

(II) Minimum length limit: 24 inches.

(III) No maximum length limit.

(iii) great, scalloped, and smooth hammerhead:

(I) Daily bag limit: 1.

(II) Minimum length limit: 99 inches.

(III) No maximum length limit.

(iv) The take of the following species of sharks from the waters of this state is prohibited and they may not be possessed on board a vessel at any time:

(I) Atlantic angel;

(II) Basking;

(III) Bigeye sand tiger;

(IV) Bigeye sixgill;

(V) Bigeye thresher;

(VI) Bignose;

(VII) Caribbean reef;

(VIII) Caribbean sharpnose;

(IX) Dusky;

(X) Galapagos;

(XI) Longfin mako;

(XII) Narrowtooth;

(XIII) Night;

(XIV) Sandbar;

(XV) Sand tiger;

(XVI) Sevengill;

(XVII) Silky;

(XVIII) Sixgill;

(XIX) Smalltail;

(XX) Whale; and

(XXI) White.

(v) Except for the species listed in clause (ii) - (iv) of this subparagraph, sharks may be taken using pole and line, but must be taken by non-offset, non-stainless-steel circle hook when using natural bait.

(Q) Sheepshead.

(i) Daily bag limit: 5.

(ii) Minimum length limit: 15 inches.

(iii) No maximum length limit.

(R) Snapper.

(i) Lane.

(I) Daily bag limit: None.

(II) Minimum length limit: 8 inches.

(III) No maximum length limit.

(ii) Red.

(I) Daily bag limit: 4.

(II) Minimum length limit: 15 inches.

(III) No maximum length limit.

(IV) Red snapper may be taken using pole and line, but it is unlawful to use any kind of hook other than a circle hook baited with natural bait.

(V) During the period of time when the federal waters in the Exclusive Economic Zone (EEZ) are open for the recreational take of red snapper:

(-a-) the bag limit for red snapper caught in the EEZ is two, and the minimum length limit is 16 inches; and

(-b-) red snapper caught in the EEZ shall count as part of the bag limit established in subclause (I) of this clause.

(iii) Vermilion.

(I) Daily bag limit: None.

(II) Minimum length limit: 10 inches.

(III) No maximum length limit.

(S) Snook.

(i) Daily bag limit: 1.

(ii) Minimum length limit: 24 inches.

(iii) Maximum length limit: 28 inches.

(T) Tarpon.

(i) Daily bag limit: 1.

(ii) Minimum length limit: 85 inches.

(iii) No maximum length limit.

(U) Triggerfish, gray.

(i) Daily bag limit: 20.

(ii) Minimum length limit: 16 inches.

(iii) No maximum length limit.

(V) Tripletail.

(i) Daily bag limit: 3.

(ii) Minimum length limit: 17 inches.

(iii) No maximum length limit.

(W) Trout (rainbow and brown trout, including their hybrids and subspecies).

(i) Daily bag limit: 5 (in any combination).

(ii) No minimum length limit.

(iii) No maximum length limit.

(X) Walleye and Saugeye.

(i) Daily bag limit: 5.

(ii) No minimum length limit.

(iii) No maximum length limit.

(iv) Two walleye or saugeye of less than 16 inches may be retained.

(d) Exceptions to statewide daily bag, possession, and length limits shall be as follows:

(1) Freshwater species.

(A) Bass: largemouth, smallmouth, spotted, and Guadalupe (including their hybrids and subspecies). Devils River (Val Verde County) from State Highway 163 bridge crossing (Bakers Crossing) to the confluence with Big Satan Creek including all tributaries within these boundaries and all waters in the Lost Maples State Natural Area (Bandera County).

(i) Daily bag limit: 0.

(ii) No minimum length limit.

(iii) Catch and release only.

(B) Bass: largemouth and spotted.

(i) Caddo Lake (Marion and Harrison counties).

(I) Daily bag limit: 8 (in any combination with spotted bass).

(II) Minimum length limit: 14 - 18 inch slot limit (largemouth bass); no limit for spotted bass.

(III) It is unlawful to retain largemouth bass between 14 and 18 inches. No more than 4 largemouth bass 18 inches or longer may be retained. Possession limit is 10.

(ii) Toledo Bend Reservoir (Newton, Sabine, and Shelby counties).

(I) Daily bag limit: 8 (in any combination with spotted bass).

(II) Minimum length limit: 14 inches (largemouth bass); no limit for spotted bass. Possession limit is 10.

(iii) Sabine River (Newton and Orange counties) from Toledo Bend dam to a line across Sabine Pass between Texas Point and Louisiana Point.

(I) Daily bag limit: 8 (in any combination with spotted bass).

(II) Minimum length limit: 12 inches (largemouth bass); no limit for spotted bass. Possession limit is 10.

(C) Bass: largemouth

(i) Chambers, Hardin, Galveston, Jefferson, Liberty (south of U.S. Highway 90), Newton (excluding Toledo Bend Reservoir), and Orange counties including any public waters that form boundaries with adjacent counties.

(I) Daily bag limit: 5.

(II) Minimum length limit: 12 inches.

(ii) Lake Conroe (Montgomery and Walker counties).

(I) Daily bag limit: 5.

(II) Minimum length limit: 16 inches.

(iii) Lakes Bellwood (Smith County), Bois d'Arc (Fannin County), Davy Crockett (Fannin County), Kurth (Angelina County), Mill Creek (Van Zandt County), Moss (Cooke), Nacogdoches (Nacogdoches County), Naconiche (Nacogdoches County), Purts Creek State Park (Henderson and Van Zandt counties), and Raven (Walker).

(I) Daily bag limit: 5.

(II) Maximum length limit: 16 inches.

(III) It is unlawful to retain largemouth bass of 16 inches or greater in length. Largemouth bass 24 inches or greater in length may be retained in a live well or other aerated holding device for purposes of weighing but may not be removed from the immediate vicinity of the lake. After weighing the bass must be released immediately back into the lake unless the department has instructed that the bass be kept for donation to the ShareLunker Program.

(iv) Lakes Bright (Williamson County), Casa Blanca (Webb County), Cleburne State Park (Johnson County), Fairfield (Freestone County), Gilmer (Upshur County), Marine Creek Reservoir (Tarrant County), Meridian State Park (Bosque County), Pflugerville (Travis County), Rusk State Park (Cherokee County), and Welsh (Titus County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 18 inches.

(v) Bedford Boys Ranch Lake (Tarrant County), Buck Lake (Kimble County), Lake Kyle (Hays County), and Nelson Park Lake (Taylor County).

(I) Daily bag limit: 0.

(II) Minimum length limit: No limit.

(III) Catch and release only.

(vi) Lakes Alan Henry (Garza County), Grapevine (Denton and Tarrant counties), Jacksonville (Cherokee County), and O.H. Ivie Reservoir (Coleman, Concho, and Runnels counties).

(I) Daily bag limit: 5.

(II) Minimum length limit: No limit.

(III) It is unlawful to retain more than two bass of less than 18 inches in length.

(vii) Nasworthy (Tom Green).

(I) Daily bag limit: 5.

(II) Minimum length limit: 14 - 18 inch slot limit.

(III) It is unlawful to retain largemouth bass between 14 and 18 inches in length.

(viii) Lakes Athens (Henderson County), Bastrop (Bastrop County), Buescher State Park (Bastrop County), Houston County (Houston County), Joe Pool (Dallas, Ellis, and Tarrant counties), Lady Bird (Travis County), Murvaul (Panola County), Pinkston (Shelby County), Timpson (Shelby County), Walter E. Long (Travis County), and Wheeler Branch (Somervell County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 14 - 21 inch slot limit.

(III) It is unlawful to retain largemouth bass between 14 and 21 inches in length. No more than 1 bass 21 inches or greater in length may be retained each day.

(ix) Lakes Fayette County (Fayette County), Fork (Wood Rains and Hopkins counties), Gibbons Creek Reservoir (Grimes County), and Monticello (Titus County).

(I) Daily bag limit: 5.

(II) Minimum length limit: 16 - 24 inch slot limit.

(III) It is unlawful to retain largemouth bass between 16 and 24 inches in length. No more than 1 bass 24 inches or greater in length may be retained each day.

(x) Lake Lakewood (Williamson County).

(I) Daily bag limit: 3.

(II) Minimum length limit: 18 inches.

(D) Bass: striped and their hybrids.

(i) Sabine River (Newton and Orange counties) from Toledo Bend dam to I.H. 10 bridge and Toledo Bend Reservoir (Newton, Sabine, and Shelby counties).

(I) Daily bag limit: 5.

(II) Minimum length limit: No limit.

(III) No more than 2 striped bass 30 inches or greater in length may be retained each day.

(ii) Lake Texoma (Cooke and Grayson counties).

(I) Daily bag limit: 10 (in any combination).

(II) Minimum length limit: No limit.

(III) No more than 2 striped or hybrid striped bass 20 inches or greater in length may be retained each day. Striped or hybrid striped bass caught and placed on a stringer in a live well or any other holding device become part of the daily bag limit and may not be released. Possession limit is 20.

(iii) Red River (Grayson County) from Denison Dam downstream to and including Shawnee Creek (Grayson County).

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: No limit.

(III) Striped bass caught and placed on a stringer in a live well or any other holding device become part of the daily bag limit and may not be released.

(iv) Trinity River (Polk and San Jacinto counties) from the Lake Livingston dam downstream to the F.M. 3278 bridge.

(I) Daily bag limit: 2 (in any combination).

(II) Minimum length limit: 18 inches.

(E) Bass: white. Lakes Caddo (Harrison and Marion counties), Texoma (Cooke and Grayson counties), and Toledo Bend (Newton Sabine and Shelby counties) and Sabine River (Newton and Orange counties) from Toledo Bend dam to I.H. 10 bridge.

(i) Daily bag limit: 25.

(ii) Minimum length limit: No limit.

(F) Carp: common. Lady Bird Lake (Travis County).

(i) Daily bag limit: No limit.

(ii) Minimum length limit: No limit.

(iii) It is unlawful to retain more than one common carp of 33 inches or longer per day.

(G) Catfish: channel and blue catfish, their hybrids and subspecies.

(i) Lake Kyle (Hays County).

(I) Daily bag limit: 0.

(II) Minimum length limit: No limit.

(III) Catch and release and only.

(ii) Trinity River (Polk and San Jacinto counties) from the Lake Livingston dam downstream to the F.M. 3278 bridge.

(I) Daily bag limit: 10 (in any combination).

(II) Minimum length limit: 12 inches.

(III) No more than 2 channel or blue catfish 24 inches or greater in length may be retained each day.

(iii) Lakes Caddo (Harrison and Marion counties), Livingston (Polk, San Jacinto, Trinity, and Walker counties), Sam Rayburn (Angelina, Jasper, Nacogdoches, Sabine, and San Augustine counties), and Toledo Bend (Newton, Sabine and Shelby counties) and the Sabine River (Newton and Orange counties) from Toledo Bend dam to the I.H. 10 bridge.

(I) Daily bag limit: 50 (in any combination).

(II) Minimum length limit: No limit.

(III) No more than five catfish 30 inches or greater in length may be retained each day.

(IV) Possession limit is 50.

(iv) Lake Texoma (Cooke and Grayson counties) and the Red River (Grayson County) from Denison Dam to and including Shawnee Creek (Grayson County).

(I) Daily bag limit: 15 (in any combination).

(II) Minimum length limit: No limit

(III) No more than one blue catfish 30 inches or greater in length may be retained each day.

(v) Brushy Creek (Williamson County) from the Brushy Creek Reservoir dam downstream to the Williamson/Milam county line, Canyon Lake Project #6 (Lubbock County), North Concho River (Tom Green County) from O.C. Fisher Dam to Bell Street Dam, and South Concho River (Tom Green County) from Lone Wolf Dam to Bell Street Dam.

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: No limit.

(vi) Community fishing lakes.

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: No limit.

(vii) Lakes Bellwood (Smith County), Dixieland (Cameron County), and Tankersley (Titus County).

(I) Daily bag limit: 5 (in any combination).

(II) Minimum length limit: 12 inches.

(viii) Lakes Belton (Bell and Coryell counties), Bob Sandlin (Camp, Franklin, and Titus counties), Conroe (Montgomery and Walker counties), Hubbard Creek (Stephens County), Kirby (Taylor County), Lavon (Collin County), Lewisville (Denton County), Palestine (Cherokee, Anderson, Henderson, and Smith counties), Ray Hubbard (Collin, Dallas, Kaufman, and Rockwall counties), Richland-Chambers (Freestone and Navarro counties), Tawakoni (Hunt, Rains, and Van Zandt counties), and Waco (McClennan).

(I) Daily bag limit: 25 (in any combination).

(II) Minimum length limit: No limit.

(III) No more than five blue or channel catfish 20 inches or greater may be retained each day, and of these, no more than one can be 30 inches or greater in length.

(ix) Lakes Braunig (Bexar County), Calaveras (Bexar County), Choke Canyon (Live Oak and McMullen counties), Fayette County (Fayette County), and Proctor (Comanche County).

(I) Daily bag limit: 15 (in any combination).

(II) Minimum length limit: 14 inches.

(H) Catfish: flathead.

(i) Lake Texoma (Cooke and Grayson counties) and the Red River (Grayson County) from Denison Dam to and including Shawnee Creek (Grayson County).

(I) Daily bag limit: 5.

(II) Minimum length limit: No limit

(ii) Lakes Caddo (Harrison and Marion counties) and Toledo Bend (Newton, Sabine, and Shelby) and the Sabine River (Newton and Orange counties) from Toledo Bend dam to the I.H. 10 bridge.

(I) Daily bag limit: 10.

(II) Minimum length limit: 18 inches.

(III) Possession limit: 10.

(I) Crappie: black and white crappie their hybrids and subspecies.

(i) Caddo Lake (Harrison and Marion counties), Toledo Bend Reservoir (Newton Sabine and Shelby counties), and the Sabine River (Newton and Orange counties) from Toledo Bend dam to the I.H. 10 bridge.

(I) Daily bag limit: 25 (in any combination).

(II) Minimum length limit: No limit.

(ii) Lake Fork (Wood, Rains, and Hopkins counties) and Lake O' The Pines (Camp, Harrison, Marion, Morris, and Upshur counties).

(I) Daily bag limit: 25 (in any combination).

(II) Minimum length limit: 10 inches.

(III) From December 1 through the last day in February there is no minimum length limit. All crappie caught during this period must be retained.

(iii) Lake Texoma (Cooke and Grayson counties).

(I) Daily bag limit: 37 (in any combination).

(II) Minimum length limit: 10 inches.

(III) Possession limit is 50.

(iv) Lake Nasworthy (Tom Green County).

(I) Daily bag limit: 25 (in any combination).

(II) Minimum length limit: No limit.

(III) Possession limit is 50.

(J) Drum, red. Lakes Braunig and Calaveras (Bexar County).

(i) Daily bag limit: 3.

(ii) Minimum length limit: 20.

(iii) No maximum length limit.

(K) Gar, alligator.

(i) Falcon International Reservoir (Starr and Zapata counties).

(I) Daily bag limit: 5.

(II) No minimum length limit.

(III) No maximum length limit.

(ii) On the Trinity River and all tributary waters from the I-30 bridge in Dallas County downstream through Anderson, Ellis, Freestone, Henderson, Houston, Kaufman, Leon, Liberty, Madison, Navarro, Polk, San Jacinto, Trinity, and Walker counties to the I-10 bridge in Chambers County, including the East Fork of the Trinity River and all tributaries upstream to the Lake Ray Hubbard dam, the maximum length limit is 48 inches, except for persons selected by a department-administered drawing authorizing the take of a gar in excess of 48 inches in length.

(iii) During May, no person shall take alligator gar from, or possess alligator gar while on, the Red River (including Lake Texoma) and all tributaries that drain directly or indirectly to the Red River on the Texas/Oklahoma border in Cooke, Grayson, Fannin, Lamar, Red River, and Bowie counties.

(L) Shad gizzard and threadfin. Trinity River below Lake Livingston (Polk and San Jacinto counties).

(i) Daily bag limit: 500 (in any combination).

(ii) No minimum length limit.

(iii) Possession limit: 1000 (in any combination).

(M) Sunfish: all species. Lake Kyle (Hays County).

(i) Daily bag limit: 0.

(ii) Minimum length limit: No limit.

(iii) Catch and release and only.

(N) Trout: rainbow and brown trout (including hybrids and subspecies).

(i) Guadalupe River (Comal County) from the second bridge crossing on the River Road upstream to the easternmost bridge crossing on F.M. 306.

(I) Daily bag limit: 1.

(II) Minimum length limit: 18 inches.

(ii) Guadalupe River (Comal County) from the easternmost bridge crossing on F.M. 306 upstream to 800 yards below the Canyon Lake dam.

(I) Daily bag limit: 5.

(II) Minimum length limit: 12 - 18 inch slot limit.

(III) It is unlawful to retain trout between 12 and 18 inches in length. No more than one trout 18 inches or greater in length may be retained each day.

(2) Saltwater species. There are no exceptions to the provisions established in subsection (c)(5) of this section.

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

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James Murphy  
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Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



### DIVISION 3. STATEWIDE COMMERCIAL FISHING PROCLAMATION

#### 31 TAC §57.992

The amendment is adopted under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

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

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### DIVISION 4. SPECIAL PROVISIONS TO PREVENT THE SPREAD OF EXOTIC AQUATIC SPECIES

#### 31 TAC §57.1000

The amendment is adopted under the authority of Parks and Wildlife Code, Chapter 61, which requires the commission to regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the means, methods, and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life in this state; the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life authorized to be hunted, taken, or possessed; and the region, county, area, body of water, or portion of a county where game animals, game birds, or aquatic animal life may be hunted, taken, or possessed.

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