



TX-SML Auxiliary Mortgage Loan Activity License New Application Checklist (Company)

CHECKLIST SECTIONS

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GENERAL INFORMATION

Who Is Required to Have This License?

A political subdivision of Texas or the federal government doing business in Texas for Texas consumers, or any non-profit organization that qualifies for an exemption from state franchise and sales tax as a 501(c)(3) organization, that is involved in affordable home ownership lending programs including those that provide zero percent interest loans or forgivable down payment assistance loans. See Texas Finance Code § 156.002(1).

Who Does Not Need This License?

This license is a special purpose or specialty type of license where the person must meet a narrow set of criteria to be eligible for the license.

The license is not required for any 501(c)(3) HUD-Approved Housing Counseling Agency when engaged in activities (outlined in 24 C.F.R. § 214) such as foreclosure prevention counseling, pre-purchase counseling, and reverse mortgage counseling but is not engaged in originating residential mortgage loans or the decision-making process of loan origination.

Activities Authorized Under This License

This license authorizes the following activities:

- First Mortgage Lending
- Second Mortgage Lending

See the [Business Activities Definitions](#) for a full list.

Pre-Requisites for License Applications

To be issued an auxiliary mortgage loan activity company license, an applicant must (see Texas Finance Code § 156.2043):

- (1) submit a completed application together with the payment of applicable fees through the NMLS;
- (2) designate control persons for the company through the NMLS;
- (3) designate an individual licensed that holds an active TX-SML residential mortgage loan originator license and is sponsored by the company to serve as the company's qualifying individual; and

(4) not be in violation of Chapter 156 of the Texas Finance Code, a rule adopted under Chapter 156, or any order previously issued by the TX-SML commissioner to the applicant.

The person must have proof that the entity is: (1) a political subdivision of Texas or the federal government doing business in Texas; or (2) a non-profit organization that qualifies for an exemption from state franchise and sales tax as a 501(c)(3) organization.

Additionally, the company name or assumed name must be properly filed with either the Texas Secretary of State or the appropriate Texas County Clerk's office (unincorporated persons).

TX-SML does not issue paper licenses for this license type.

Document Uploads Guidance

Documents that must be uploaded to the *Document Uploads* section of the Company Form (MU1) in NMLS are indicated in the checklist below. When uploading documents:

- Follow the guidance in [Document Upload Descriptions and Examples](#).
- Only upload documents relevant to the company application.
- Only upload documents where there is a selectable document category. If inappropriate documents are uploaded that should not be, you will be contacted by your regulator and asked to remove them from NMLS.
- Do not upload the same company documents multiple times. Generally, unless the document is state-specific, if the document has already been uploaded for another state, a new upload is not required unless changes have been made.
- If a document previously uploaded has been revised, delete the old document and replace it with the new document (history of the old document will remain in NMLS).
- For state-specific documents (e.g., Surety Bonds), be sure to indicate the applicable state.

Helpful Resources

- [Company Form \(MU1\) Filing Instructions](#)
- [Document Upload Descriptions and Examples](#)
- [Individual Form \(MU2\) Filing Quick Guide](#)
- [Financial Statements Quick Guide](#)
- [Payment Options Quick Guide](#)
- [License Status Definitions Quick Guide](#)

Agency Contact Information

Contact the TX-SML Licensing Section by phone at 512-475-1350 or toll free at 877-276-5550 or send your questions via e-mail to nmls@sml.texas.gov us for additional assistance.

For U.S. Postal Service and Overnight Delivery:

*Department of Savings and Mortgage Lending
Licensing Section
2601 North Lamar Boulevard, Suite 201
Austin, Texas 78705-4207*

THE APPLICANT/LICENSEE IS FULLY RESPONSIBLE FOR ALL OF THE REQUIREMENTS OF THE LICENSE FOR WHICH THEY ARE APPLYING. THE AGENCY SPECIFIC REQUIREMENTS CONTAINED HEREIN ARE FOR GUIDANCE ONLY TO FACILITATE APPLICATION THROUGH NMLS. SHOULD YOU HAVE QUESTIONS, PLEASE CONSULT LEGAL COUNSEL.

LICENSE FEES - Fees collected through NMLS are NOT REFUNDABLE OR TRANSFERABLE.

Complete	TX-SML Auxiliary Mortgage Loan Activity Company	Submitted via...
<input type="checkbox"/>	Texas Initial Auxiliary Mortgage Loan Activity Application (MU1): \$0 Renewing Auxiliary Mortgage Loan Activity License: \$0	NMLS
<input type="checkbox"/>	NMLS Initial Processing Fee: \$100	

REQUIREMENTS COMPLETED IN NMLS

Complete	TX-SML Auxiliary Mortgage Loan Activity Company	Submitted via...
<input type="checkbox"/>	Submission of Company Form (MU1): Complete and submit the Company Form (MU1) in NMLS. This form serves as the application for the license through NMLS.	NMLS

<input type="checkbox"/>	<p>Other Trade Name: If operating under a name that is different from the applicant's legal name, that name ("Trade Name", "Assumed Name" or "DBA") must be listed under the <i>Other Trade Names</i> section of the Company Form (MU1). TX-SML does not limit the number of other trade names.</p> <p>If operating under an "Other Trade Name", upload Assumed Name Certificate] regarding ability to do business under that trade name.</p> <p>This document should be named <i>TX Trade Name – Assumed Name</i>.</p> <p>Information about registering a trade name in Texas can be obtained from the Texas Secretary of State.</p> <p>Entity Name: Name that includes (Bank, Banc, Bank and Trust, Trust)</p> <p>Texas Finance Code §31.005 prohibits a person from the use of the term "bank," "bank and trust," "banc," or similar term in its name that would imply to the public that the person is engaged in the business of banking in Texas. If one or more of these terms is used in your company's name or trade name, please contact the Texas Department of Banking and obtain a letter of no objection. The no objection letter must confirm that the Texas Department of Banking does not object to the use of your company name, which includes the word Bank, Banc, Bank and Trust, Trust or a similar term. Information concerning the process to obtain a letter of no objection can be obtained from the Texas Department of Banking.</p>	<p>NMLS</p> <p>Upload in NMLS: under the Document Type <u>Trade Name/Assumed Name Registration Certificates</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p> <p>Upload in NMLS: under the Document Type TX <u>Letter of No Objection</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p>
<input type="checkbox"/>	<p>Resident/Registered Agent: The Resident/Registered Agent name and address must be listed under the <i>Resident/Registered Agent</i> section of the Company Form (MU1) and must match the information currently on record with Texas Secretary of State.</p> <p>A registered agent is an individual Texas resident or an organization that is registered or authorized to do business in Texas. Although an officer, owner, or employee may serve as an entity's registered agent, an entity may not serve as its own registered agent. An entity may contract for registered agent services from another business entity, such as a service company. The registered agent must be located in Texas.</p> <p>Information about registered agents in Texas can be obtained from the Texas Secretary of State.</p>	<p>NMLS</p>

<input type="checkbox"/>	<p>Primary Contact Employees: The following individuals must be entered into the <i>Contact Employees</i> section of the Company Form (MU1).</p> <p>1. Primary Company Contact</p> <p>2. Primary Consumer Complaint Contact</p> <p>The Primary Contact Employees field is extremely important. The Primary Contact Employee must be authorized to receive ALL compliance and licensing information, communications, and mailings regarding the entity, officers, directors, and residential mortgage loan originators identified to the state. The Primary Contact Employee is responsible for disseminating all information received from the TX-SML to the entity and its employees. This position is not required to be the Resident/Registered Agent.</p>	
<input type="checkbox"/>	<p>Disclosure Questions: Provide a complete and detailed explanation and document upload for each “Yes” response to Disclosure Questions made by the company or related control persons (MU2).</p> <p>See the Company Disclosure Explanations Quick Guide for instructions.</p>	<p>Upload in NMLS in the <i>Disclosure Explanations</i> section of the Company Form (MU1) or Individual Form (MU2).</p>
<input type="checkbox"/>	<p>Qualifying Individual: TX-SML requires a Qualifying Individual be identified on the Form MU1 filing. This individual must be listed in the Qualifying Individual section of Company Form (MU1).</p> <p>The Qualifying Individual must (see 7 Texas Administrative Code § 80.102):</p> <ul style="list-style-type: none"> (1) hold an <u>active</u> Texas-SML residential mortgage loan originator license which authorizes the person to conduct regulated activities; (2) be sponsored by the mortgage company; (3) maintain a valid unique identifier issued by the NMLS; and (4) be designated by the mortgage company as the company’s representative responsible to the commissioner and members of the public for any act or conduct performed by the residential mortgage loan originator sponsored by or acting for the mortgage company in connection with: <ul style="list-style-type: none"> (a) the origination of a residential mortgage loan; or (b) a transaction that is related to the origination of a residential mortgage loan in which the qualifying individual knew or should have known of the transaction. <p>A “Qualifying Individual” is defined by Texas Finance Code § 156.002(10-b) as “an individual who is: (A) licensed under Chapter 157 as a residential mortgage loan originator; and (B) designated by a residential mortgage loan company as the company’s representative.”</p>	<p>NMLS</p>
<input type="checkbox"/>	<p>Control Person (MU2) Attestation: Complete the Individual Form (MU2) in NMLS. This form must be attested to by the applicable control person before it is able to be submitted along with the Company Form (MU1).</p>	<p>NMLS</p>

<input type="checkbox"/>	<p>Sponsorship of Individual Originators: Each residential mortgage loan originator (an individual who for compensation or gain or in the expectation of compensation or gain: (1) takes a residential mortgage loan application; or (2) offers or negotiates the terms of a residential mortgage loan) must be separately licensed and file a Form MU4 through NMLS. After the MU4 is submitted, the company must submit a sponsorship request to the TX-SML before the individual MU4 license will be approved. See 7 Texas Administrative Code § 80.101.</p> <p>A quick guide entitled “Create a Company Sponsorship” at the following link will help walk you through this process: NMLS Quick Guides.</p>	
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REQUIREMENTS/DOCUMENTS UPLOADED IN NMLS		
Complete	TX-SML Auxiliary Mortgage Loan Activity Company	Submitted via...
<input type="checkbox"/>	<p>Certificate of Authority/Good Standing Certificate: If the company was organized or formed outside of Texas, Upload a State-issued and approved document (Texas Secretary of State’s office), dated not more than 60 days prior to the filing of the application through NMLS that demonstrates authorization to do business in TX.</p> <p>This document should be named <i>TX Certificate of Authority OR TX Certificate of Good Standing</i>.</p> <p>Note: A foreign filing entity, as described in Section 9.001 of the Texas Business Organizations Code, must file an application for registration, previously known as an application for certificate of authority, if it “transacts business” in Texas.</p> <p>Section 9.001 of the Texas Business Organizations Code only requires a certificate of authority for the following entities: corporations; limited partnerships; limited liability partnerships; limited liability companies; business trusts; real estate investment trusts; cooperatives; public or private limited companies; any other foreign entity that, if formed in Texas, would be formed as a corporation, limited partnership, limited liability company, professional association, cooperative, or real estate investment trust; and any other foreign entity that affords limited liability under the law of its jurisdiction of formation for any owner or member.</p> <p>A true sole proprietorship is not required to obtain a certificate of authority from the Texas Secretary of State.</p> <p>More information about the out-of-state entity registration can be obtained from the Texas Secretary of State.</p>	<p>Upload in NMLS: under the Document Type <u>Certificate of Authority/Good Standing Certificate</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p>

<input type="checkbox"/>	<p>Document Samples: Upload copies of the following sample documents used in the regular course of business in connection with this license:</p> <ul style="list-style-type: none"> IRS Employer Identification Number Verification Document A copy of the SS-4 letter or 147C letter from the Internal Revenue Service (IRS) must be provided that confirms the company's Employee Identification Number (EIN). <p>Note: A SS-4 application form will not be accepted by TX-SML as proof of the issuance of an EIN. Company name listed on the IRS document must match exactly as the name listed on the MU1 and with Texas Secretary of State.</p> <p>This document should be named <i>[IRS EIN Verification]</i>.</p>	<p>Upload in NMLS: under the Document Type <u>Document Samples</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p>
NOTE	Company must be in good standing with Texas Secretary of State and Texas Comptroller of Public Accounts.	
<input type="checkbox"/>	<p>Bona-Fide Nonprofit Organization or Political Subdivision: To be considered a bona-fide nonprofit organization, an entity must provide explanation and proof of each of the items shown below:</p> <ol style="list-style-type: none"> 1. The entity has the status of a tax-exempt organization under section 501 (c)(3) of the Internal Revenue Code of 1986; 2. The entity promotes affordable housing or provides homeownership education, or similar services; 3. The entity conducts its activities in a manner that serves public and charitable purposes, rather than commercial purposes; 4. The entity receives funding and revenue and charges fees in a manner that does not incentivize it or its employees to act other than in the best interest of its clients; 5. The entity compensates its employees in a manner that does not incentivize employees to act other than in the best interest of its clients; 6. The entity provides or identifies for the borrower residential mortgage loans with terms favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and 7. The entity meets other standards as set by the Department (additional information may be requested as needed for this requirement.) <p>To be considered a political subdivision of the state or federal government, an entity must provide some verification for this status.</p>	<p>Upload in NMLS: under the Document Type <u>Document Samples</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p>

<div data-bbox="142 928 180 968" data-label="Image"></div>	<p>Formation Documents: Determine classification of applicant’s legal status and submit true and correct copies of the applicable documentation detailed below. Original formation documents and all subsequent amendments, thereto including a list of any name changes.</p> <p>Sole Proprietorship</p> <ul style="list-style-type: none"> • None <p>Unincorporated Association:</p> <ul style="list-style-type: none"> • By-Laws or constitution (including all amendments). <p>General Partnership:</p> <ul style="list-style-type: none"> • Partnership Agreement (including all amendments). <p>Limited Liability Partnership:</p> <ul style="list-style-type: none"> • Certificate of Limited Liability Partnership; and • Partnership Agreement (including all amendments). <p>Limited Partnership:</p> <ul style="list-style-type: none"> • Certificate of Limited Partnership; and • Partnership Agreement (including all amendments). <p>Limited Liability Limited Partnership:</p> <ul style="list-style-type: none"> • Certificate of Limited Liability Limited Partnership; and • Partnership Agreement (including all amendments). <p>Limited Liability Company (“LLC”):</p> <ul style="list-style-type: none"> • Certificate of Formation or similar document (including all amendments); • Operating Agreement (including all amendments); • IRS Form 2553 or IRS Form 8832 if S-corp or C-corp treatment elected; and • LLC resolution if authority not in operating agreement. <p>Corporation:</p> <ul style="list-style-type: none"> • Articles of Incorporation (including all amendments); • By-laws (including all amendments), if applicable; • Shareholder Agreement (including all amendments), if applicable; • IRS Form 2553 if S-corp treatment elected; and • Corporate resolution if authority to complete application not in By-Laws or Shareholder Agreement, as amended, as applicable. <p>Not for Profit Corporation</p> <ul style="list-style-type: none"> • Documents requested of a Corporation; and • Proof of nonprofit status <ul style="list-style-type: none"> ○ Internal Revenue Service (“IRS”) 501(c)(3) designation letter; or ○ statement from a State taxing body or the State attorney general certifying that: (i) the entity is a nonprofit organization operating within the State; and (ii) no part of the entity’s net earnings may lawfully benefit any private shareholder or individual; or ○ entity's Certificate of Formation or similar document if it clearly establishes the nonprofit status of the applicant; or ○ Any of the three preceding items described, if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate. <p>Trust (Statutory)</p> <ul style="list-style-type: none"> • Certificate of Trust; and • Governing instrument (all amendments). 	<p>Upload in NMLS: under the Document Type <u>Formation Document</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p> <p>This document should be named <i>Formation Documentation [Date of Creation (MM-DD-YYYY)]</i>.</p>
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<input type="checkbox"/>	<p>Management Chart: Submit a Management chart displaying the applicant's directors, officers, and managers (individual name and title). Must also identify compliance reporting and internal audit structure.</p> <p>This document should be named <i>[Company Legal Name] Management Chart</i>.</p> <p>Note: If the existing uploaded management chart already includes the above information, an additional document does not need to be uploaded. A company should only upload a single management chart.</p>	<p>Upload in NMLS: under the Document Type <u>Management Chart</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p>
<input type="checkbox"/>	<p>Organizational Chart/Description: Submit a chart showing (or a description which includes) the percentage of ownership of:</p> <ul style="list-style-type: none"> • Direct Owners (total direct ownership percentage must equate to 100%) • Indirect Owners • Subsidiaries and Affiliates of the applicant/licensee <p>This document should be named <i>[Company Legal Name] Organizational Chart – Description</i>.</p> <p>Note: If the existing uploaded Organizational Chart/Description already includes the above information, an additional document does not need to be uploaded. A company should only upload a single management chart.</p>	<p>Upload in NMLS: under the Document Type <u>Organizational Chart/Description</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p>

REQUIREMENTS SUBMITTED OUTSIDE OF NMLS - *These items must be completed outside of NMLS and submitted directly to the regulator.*

No items are required to be submitted outside of NMLS for this license at this time.