



TX-SML Mortgage Company License New Application Checklist (Company)

CHECKLIST SECTIONS

- [General Information](#)
- [License Fees](#)
- [Requirements Completed in NMLS](#)
- [Requirements/Documents Uploaded in NMLS](#)
- [Requirements Submitted Outside of NMLS](#)

GENERAL INFORMATION

Who Is Required to Have This License?

A person may not act in the capacity of, engage in the business of, or advertise or hold that person out as engaging in or conducting the business of a residential mortgage loan company in Texas unless the person holds an active residential mortgage loan company license, is registered as a financial services company, or is exempt from licensure. See Texas Finance Code § 156.201(a).

A “mortgage company” is a corporation, company, partnership, or sole proprietorship that engages in the business of residential mortgage loan origination on real property located in Texas. See Texas Finance Code § 156.002(8-a).

A “residential mortgage loan” is “a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real estate.” See Texas Finance Code §180.002(18). A residential mortgage loan 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 a residence. See 7 Texas Administrative Code § 80.2(15).

“Residential real estate” is real property located in Texas on which a dwelling is constructed or intended to be constructed.” See Texas Finance Code § 180.002(20).

In addition to the licensing requirement for originating residential mortgage loans, a person may not make a wrap mortgage loan unless the person is licensed as a mortgage company, registered as a mortgage banker, or exempt from licensing or registration requirements. See Texas Finance Code § 159.051.

A “wrap lender” is defined by Texas Finance Code § 159.001(6) as “a person who makes a wrap mortgage loan; or an owner of residential real estate who contacts with another person to make a wrap mortgage loan to a wrap borrower on the owner’s behalf to finance the purchase of the owner’s residential real estate.”

A person is considered to make a wrap mortgage loan “when a person determines the credit decision to provide the wrap mortgage loan, or the act of funding the wrap mortgage loan or transferring money to the wrap

borrower. A person whose name appears on the loan documents as the payee of the note is considered to have 'made' the wrap mortgage loan." See 7 Texas Administrative Code § 78.2(8).

For wrap mortgage loan transactions, the following entities must be licensed or registered:

- (1) a person making the credit decision to make the wrap mortgage loan;
- (2) the lender of record shown on the promissory note;
- (3) hard-money lenders;
- (4) table funding or correspondent lenders where the wrap mortgage loan is closed in a broker's name as the lender on the promissory note but the funding for the wrap mortgage loan comes from a prearranged buyer of the loan or from a "warehouse" line of credit extended by a bank, financial institution or other entity; and
- (5) a person originating a wrap mortgage loan on behalf of a lender.

Who Does Not Need This License?

The following entities do not have to obtain a mortgage company license (see Texas Finance Code § 156.202):

- (1) a nonprofit organization:
 - (A) providing self-help housing that originates zero interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan; or
 - (B) that has designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan;
- (2) a mortgage banker registered under Chapter 157 of the Texas Finance Code;
- (3) any owner of residential real estate who in any 12-consecutive-month period makes no more than three residential mortgage loans to purchasers of the property for all or part of the purchase price of the residential real estate against which the mortgage is secured (Two or more owners of residential real estate are consider a single owner for the purpose of computing the number of mortgage loans made if any of the owners are an entity or an affiliate of an entity, including a general partnership, limited partnership, limited liability company, or corporation.);
- (4) an entity that is:
 - (A) a depository institution;
 - (B) a subsidiary of a depository institution that is:
 - (i) owned and controlled by the depository institution; and
 - (ii) regulated by a federal banking agency; or
 - (C) an institution regulated by the Farm Credit Administration.

A person is not required to obtain a mortgage company license if the person:

- (1) originates a loan subject to Chapter 342 (secondary mortgage loans with an effective rate in excess of 10% per annum) or a loan governed by Section 50(a)(6), Article XVI, Texas Constitution (home equity loans), and:
 - (A) is enrolled with NMLS;
 - (B) is licensed under Chapter 342 of the Texas Finance Code (holds a regulated loan license issued by the Texas Office of Consumer Credit Commissioner); and
 - (C) makes consumer loans subject to:
 - (i) Subchapter G, Chapter 342; and
 - (ii) Subchapter E or F, Chapter 342;
- (2) is licensed as a credit union subsidiary organization under Chapter 156 of the Texas Finance Code;
- (3) is licensed as an auxiliary mortgage loan activity company under Chapter 156 of the Texas Finance Code;

- (4) is licensed as an independent contractor loan processor or underwriter company licensed under Chapter 156 of the Texas Finance Code (assuming the company only performs clerical or support duties as an independent contractor); or
- (5) is registered as a financial services company under Chapter 156 of the Texas Finance Code.

Activities Authorized Under This License

This license authorizes the following activities:

- First and second mortgage brokering
- First and second mortgage lending
- Foreclosure consulting/foreclosure rescue
- High cost home loans – Broker
- High cost home loans – Lender
- Home equity lending/lines of credit – Broker
- Home equity lending/lines of credit – Lender
- Reverse mortgage brokering
- Reverse mortgage lending

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

Pre-Requisites for License Applications

To be issued a mortgage company license, an applicant must (see Texas Finance Code § 156.2041):

- (1) submit a completed application together with the payment of applicable fees through NMLS;
- (2) designate control persons for the mortgage company through NMLS;
- (3) designate an individual that holds an active TX-SML residential mortgage loan originator license and is sponsored by the mortgage company to serve as the mortgage company's qualifying individual;
- (4) submit a completed branch application through NMLS for each branch office that engages in residential mortgage loan activity on residential real estate located in this state;
- (5) not be in violation of Chapter 156 of the Texas Finance Code, a rule adopted under Chapter 156 of the Texas Finance Code, or any order previously issued by the TX-SML commissioner to the applicant;
- (6) have the company name or assumed name properly filed with either the Texas Secretary of State or with the appropriate Texas County Clerk's Office (unincorporated persons); and
- (7) provide financial statements and any other information required by the commissioner.

Presently, TX-SML is not requiring the submission any financial statements.

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 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 Mortgage Company License	Submitted via...
<input type="checkbox"/>	<p>Texas Initial Mortgage Company License (MU1): \$300</p> <p>NMLS Initial Processing Fee: \$100</p>	NMLS

REQUIREMENTS COMPLETED IN NMLS

Complete	TX-SML Mortgage Company License	Submitted via...
<input type="checkbox"/>	<p>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.</p>	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>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>
<input type="checkbox"/>	<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 mortgage 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>Upload in NMLS: under the Document Type <u>TX 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 filed with the 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>Disclosure Questions: Provide a complete and detailed explanation and document upload for each “Yes” response to Disclosure Questions made by the applicant 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>Primary Contact Employees: The following individuals must be entered into the <i>Contact Employees</i> section of the Company Form (MU1).</p> <ol style="list-style-type: none"> 1. Primary Company Contact. 2. Primary Consumer Complaint Contact. <p>The Primary Contact Employee 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>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 individual 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>	NMLS
<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>	NMLS
<input type="checkbox"/>	<p>Branch Office Licenses: Each branch office must be separately licensed and file a Form MU3 through NMLS. A "branch office" is any office a mortgage company maintains that is separate and distinct from its main office, whether located in Texas or not, at which it conducts residential mortgage loan origination business with mortgage applicants or prospective mortgage applicants in Texas or concerning residential real estate located in Texas. See 7 Texas Administrative Code § 80.206(a)(2).</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 mortgage company must submit a sponsorship request to the Texas-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>	

REQUIREMENTS/DOCUMENTS UPLOADED IN NMLS		
Complete	TX-SML Mortgage Company License	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>IRS EIN Verification</u> in the <i>Document Uploads</i> section of the Company Form (MU1).</p>
NOTE	Company must be in good standing with the Texas Secretary of State and the Texas Comptroller of Public Accounts.	

<div data-bbox="147 1010 175 1037" 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.</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"> • Certificate of Formation or similar document (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"> ○ 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>	<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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	<ul style="list-style-type: none"> • Certificate of Trust; and • Governing instrument (including all amendments). 	
□	<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>
□	<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.