(1) THE MORTGAGE BANKER OR MORTGAGE BROKER VIOLATES ANY PROVISION OF THE CODE OF CONDUCT ESTABLISHED BY THE BANK COMMISSIONER UNDER THIS SUBTITLE; AND

(2) THE BANK COMMISSIONER FINDS THAT DISCIPLINARY ACTION IS IN THE PUBLIC INTEREST.

REVISOR'S NOTE: This section is new language derived without substantive change from the third and fourth sentences of Art. 11, § 61A(b).

The third sentence of present Art. 11, § 61A(b) states that if the Bank Commissioner "finds that any mortgage broker or mortgage banker is in violation ... of the code of conduct ... said Commissioner shall be empowered to summon such violator ... to a hearing...". Read literally, this statement seems to require that the Bank Commissioner, before summoning a licensee to a hearing, must make a finding that the licensee has violated the Code of Conduct. In context, however, this statement apparently is intended to refer to a finding that is preliminary in nature — i.e., a finding that a hearing is appropriate — rather than to a formal finding that a licensee in fact has committed a violation. That formal finding, if warranted, would be made after the hearing. This intention is reflected in this section and § 12-509 of this subtitle.

Present Art. 11, § 61A(b) also provides that, if the Bank Commissioner finds that "any person ... is trading or acting as a mortgage broker or mortgage banker without a prior registration as such, said Commissioner shall be empowered to summon such violator ... to a hearing" and may "suspend or revoke a registration as a mortgage broker or mortgage banker following such hearing...". To the extent that this provision enables the Bank Commissioner to hold a hearing, the provision is deleted as nonsequential. This subtitle does not provide an administrative sanction against a person who acts as a mortgage banker or a mortgage broker without obtaining a license. The Bank Commissioner apparently would have the power to obtain an injunction to prevent that person from continuing to do business and § 12-512 of this subtitle provides criminal penalties for acting as a mortgage broker or mortgage banker without a license.

The last sentence of present Art. 11, § 61A(b) states that the Bank Commissioner may "refuse to grant a reregistration" for certain specified reasons. This sentence is deleted as unnecessary in practice and as misleading. Under § 12-509 of this subtitle, a hearing would be required before