

By: Anchia

H.B. No. 4309

A BILL TO BE ENTITLED

AN ACT

relating to the regulatory authority of the savings and mortgage
lending commissioner; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 92.554(a), Finance Code, is amended to
read as follows:

(a) On receipt of an application, the commissioner shall
submit to the Texas Register for publication in the next issue after
the date the application is received or publish in a newspaper of
general circulation that is printed in English in the county in
which the savings bank is to have the savings bank's principal
office:

- (1) notice of the application;
- (2) the date the application was filed; and
- (3) the identity of each party to the application.

SECTION 2. Subchapter B, Chapter 96, Finance Code, is
amended by adding Section 96.0551 to read as follows:

Sec. 96.0551. REGULATION AND EXAMINATION OF CERTAIN RELATED
ENTITIES. (a) In this section, "state savings bank" has the
meaning assigned by Section 31.002.

(b) The commissioner may regulate and examine, to the same
extent as if the services or activities were performed by a state
savings bank on its own premises:

- (1) the activities of a state savings bank affiliate;

1 and

2 (2) the services or activities of a third-party
3 service provider that a state savings bank or state savings bank
4 affiliate has contracted for or otherwise arranged to be performed
5 on behalf of the state savings bank or state savings bank affiliate.

6 (c) The commissioner may collect a fee from an examined
7 third-party service provider or affiliate in connection with each
8 examination to cover the cost of the examination or may collect that
9 fee from the state savings banks that use the examined third-party
10 service provider.

11 (d) For purposes of this section, a state savings bank
12 affiliate does not include a company in which ownership or
13 membership is limited to individuals and conditioned by law on the
14 existence and maintenance of professional licensing.

15 (e) To promote regulatory efficiency, if, in the preceding
16 24 months, a third-party service provider or affiliate has been
17 examined by a federal or state financial services regulatory agency
18 or by a member agency of the Federal Financial Institutions
19 Examination Council, or its successor agency, the commissioner may
20 accept the results of that examination instead of conducting the
21 commissioner's own examination of the third-party service provider
22 or affiliate. Nothing in this subsection shall be construed as
23 limiting or restricting the commissioner from participating in an
24 examination of a third-party service provider or affiliate
25 conducted by a federal or state financial services regulatory
26 agency or by a member agency of the Federal Financial Institutions
27 Examination Council, or its successor agency.

1 (f) A third-party service provider that refuses to submit to
2 examination or to pay an assessed fee for examination under this
3 section is subject to an enforcement action under Chapter 96. With
4 respect to a third-party service provider's refusal to submit to
5 examination, the commissioner may notify all state savings banks of
6 the refusal and warn that continued use of the third-party service
7 provider may constitute an unsafe and unsound banking practice.

8 SECTION 3. Section 97.006, Finance Code, is amended by
9 adding Subsections (f), (g), and (h) to read as follows:

10 (f) The commissioner may:

11 (1) examine a holding company that controls a state
12 savings bank to the same extent as if the holding company were a
13 state savings bank; and

14 (2) bring an enforcement action under Chapter 96
15 against a holding company described by Subdivision (1) or other
16 person that violates or participates in a violation of this
17 subtitle, an agreement filed with the commissioner under this
18 chapter, or a rule adopted by the finance commission or order issued
19 by the commissioner under this subtitle, as if the holding company
20 were a state savings bank.

21 (g) The grounds, procedures, and effects of an enforcement
22 action brought under Subsection (f) apply to a holding company, an
23 officer, director, or employee of a holding company, or a
24 controlling shareholder or other person participating in the
25 affairs of a holding company in the same manner as the grounds,
26 procedures, and effects apply to a state savings bank, an officer,
27 director, or employee of a state savings bank, or a controlling

1 shareholder or other person participating in the affairs of a state
2 savings bank.

3 (h) A state savings bank that is controlled by a holding
4 company that is not a Texas holding company shall be subject to all
5 laws of this state that are applicable to state savings banks that
6 are controlled by Texas holding companies.

7 SECTION 4. Section 156.2041(a), Finance Code, is amended to
8 read as follows:

9 (a) To be issued a mortgage company license, an applicant
10 must:

11 (1) submit a completed application together with the
12 payment of applicable fees through the Nationwide Mortgage
13 Licensing System and Registry;

14 (2) designate control persons for the mortgage company
15 through the Nationwide Mortgage Licensing System and Registry;

16 (3) designate an individual licensed as a residential
17 mortgage loan originator under Chapter 157 as the company's
18 qualifying individual;

19 (4) submit a completed branch application through the
20 Nationwide Mortgage Licensing System and Registry for each branch
21 office that engages in residential mortgage loan activity on
22 residential real estate located in this state;

23 (5) not be in violation of this chapter, a rule adopted
24 under this chapter, or any order previously issued by the
25 commissioner to the applicant;

26 (6) have the company name or assumed name properly
27 filed with either the secretary of state or with the appropriate

1 county clerk's office; and

2 (7) [~~maintain a physical office in this state, and~~

3 [~~8~~] provide financial statements and any other
4 information required by the commissioner.

5 SECTION 5. Section 156.2042(a), Finance Code, is amended to
6 read as follows:

7 (a) To be issued a credit union subsidiary organization
8 license, an applicant must:

9 (1) submit a completed application together with the
10 payment of applicable fees through the Nationwide Mortgage
11 Licensing System and Registry;

12 (2) designate control persons for the organization
13 through the Nationwide Mortgage Licensing System and Registry;

14 (3) designate an individual licensed as a residential
15 mortgage loan originator under Chapter 157 as the company's
16 qualifying individual;

17 (4) submit a completed branch application through the
18 Nationwide Mortgage Licensing System and Registry for each branch
19 office that engages in residential mortgage loan activity on
20 residential real estate located in this state; and

21 (5) not be in violation of this chapter, a rule adopted
22 under this chapter, or any order previously issued by the
23 commissioner to the applicant [~~, and~~

24 [~~6~~ maintain a physical office in this state].

25 SECTION 6. Section 156.501(c), Finance Code, is amended to
26 read as follows:

27 (c) Amounts in the recovery fund may be invested and

1 reinvested in accordance with Chapter 2256, Government Code, and
2 under the prudent person standard described by Section 11b, Article
3 VII, Texas Constitution [~~in the same manner as funds of the~~
4 ~~Employees Retirement System of Texas~~], and the interest from these
5 investments shall be deposited to the credit of the fund. An
6 investment may not be made under this subsection if the investment
7 will impair the necessary liquidity required to satisfy judgment
8 payments awarded under this subchapter.

9 SECTION 7. The following provisions of the Finance Code are
10 repealed:

- 11 (1) Sections 156.212(a) and (a-1);
- 12 (2) Sections 156.501(d) and (f); and
- 13 (3) Section 156.502(b).

14 SECTION 8. Section 92.554(a), Finance Code, as amended by
15 this Act, applies only to an application filed on or after the
16 effective date of this Act. An application filed before the
17 effective date of this Act is governed by the law in effect on the
18 date the application was filed, and the former law is continued in
19 effect for that purpose.

20 SECTION 9. Section 156.501(c), Finance Code, as amended by
21 this Act, applies only to an investment made on or after the
22 effective date of this Act. An investment made before the effective
23 date of this Act is governed by the law in effect on the date the
24 investment was made, and the former law is continued in effect for
25 that purpose.

26 SECTION 10. This Act takes effect September 1, 2021.