

BILL ANALYSIS

S.B. 252
By: Staples
Financial Institutions
Committee Report (Amended)

BACKGROUND AND PURPOSE

A mortgage broker is defined by statute as an individual who receives a mortgage loan application from a potential borrower for the purposes of making a loan from the mortgage broker's own funds or the funds of another person. Current law prohibits a person from acting in the capacity or engaging in the business of a mortgage broker, or advertising or holding oneself out as a mortgage broker, unless the person holds an active mortgage broker license or is otherwise exempt.

Mortgage bankers are exempt from this requirement under the current statute. A mortgage banker is defined by statute as an individual who is authorized by the U.S. Department of Housing and Urban Development as a mortgagee with direct underwriting authority or an approved seller or servicer of the Federal Home Loan Mortgage Association, the Federal National Mortgage Association, or the Governmental National Mortgage Association. Because of their exemption, mortgage bankers are permitted to broker mortgages without a license. This requires Texans to seek aid from federal authorities when they are aggrieved by the actions of a mortgage banker, rather than be able to seek help from a state agency as with virtually all other individuals engaged in mortgage lending in this state.

As amended, S.B. 252 establishes registration requirements for mortgage bankers, permits the Savings and Loan Department to investigate complaints filed against mortgage bankers, and provides the savings and loan commissioner with the authority to revoke mortgage bankers' registrations under certain circumstances.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTION 1 (Section 157.011, Finance Code) of this bill.

ANALYSIS

S.B. 252 adds Chapter 157 to the Finance Code to require mortgage bankers to register with the savings and loan commissioner ("commissioner"). The bill specifies the information that must be filed by a mortgage banker. The commissioner may charge a reasonable fee not to exceed \$500 annually to cover the cost of administering the bill's provisions. No periodic renewal of a registration is required, but a registrant must update the information contained in a registration within 30 days of the date the information changed. The bill provides exemptions from the registration requirement to various licensed individuals.

The bill permits the commissioner to revoke the registration for certain causes, and the bill provides processes for contesting the revocation of a registration. A mortgage banker who is aggrieved by a ruling, order, or decision of the commissioner may appeal to district court. If a registration is revoked by the commissioner, the mortgage banker may register again only with the authorization of the commissioner. A mortgage banker who is not permitted to re-register may appeal to district court.

The bill requires mortgage bankers to provide a specific disclosure to loan applicants notifying them that complaints should be filed with the department. The bill requires the department to investigate written complaints filed against mortgage bankers and seek resolution of the disputes. The bill requires mortgage

bankers to provide any evidence requested by the commissioner promptly.

S.B. 252 permits the Finance Commission of Texas to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

January 1, 2004

EXPLANATION OF AMENDMENT

The amendment exempts a Farm Credit System Institution, or its affiliates or subsidiaries, from the registration requirements.