

BILL ANALYSIS

Senate Research Center

S.B. 1667
By: Averitt
Business & Commerce
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Enrolled

DIGEST AND PURPOSE

H.B. 1493, 77th Legislature, sought to correct deficiencies in the Mortgage Broker License Act (MLBA) to authorize access to Federal Bureau of Investigations (FBI) criminal history records on all individuals applying for a mortgage broker license. The FBI has stringent restrictions on who can access such information. The Texas Savings and Loan Department's sunset language is unacceptable to the FBI. The Texas Savings and Loan Department has expressed that access to FBI criminal history records on applicants is essential to protect consumers and to enforce compliance with MLBA. S.B. 1667 requires each applicant to be fingerprinted and submit fingerprints, and other necessary information, with the application and authorizes the savings and loan commissioner to submit the fingerprints to the FBI. This bill provides that the Department of Public Safety is the recipient of the results of the record check. S.B. 1667 also establishes guidelines for obtaining criminal history record information on an applicant for, or a holder of, a mortgage broker or loan officer license, and limits the dissemination of such information to governmental entities or, as authorized by federal law, executive order, or rule.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends and reenacts Section 156.206(b), Finance Code, as follows:

(b) Requires the savings and loan commissioner (commissioner) to obtain criminal history record information on an applicant that is maintained by the Department of Public Safety (DPS) and to obtain criminal history record information from, rather than on an applicant maintained by, the Federal Bureau of Investigation (FBI) on each applicant. Requires each applicant to submit with the application fingerprint and other information necessary to implement this section. Authorizes the commissioner to submit the fingerprint and other information to the FBI, and provides that DPS is designated to be the recipient of the results of the record check. Deletes redundant wording.

SECTION 2. Amends Section 156.206, Finance Code, by adding Subsection (d) to authorize criminal history information obtained from the FBI to be released or disclosed only to a governmental entity or, as authorized by federal statute, federal rule, or federal executive order, notwithstanding Subsection (c).

SECTION 3. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1385, as follows:

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND LOAN COMMISSIONER. (a) Entitles the commissioner to obtain from DPS, criminal history record information maintained by DPS that relates to a person who is an applicant for, or holder of, a mortgage broker or loan officer license issued under Chapter 156 (Mortgage Brokers), Finance Code.

(b) Authorizes criminal history record information obtained by the commissioner under Subsection (a) to be released or disclosed only as provided by Section 156.206, Finance Code.

SECTION 4. Effective date: September 1, 2003.