

By: Wise

H.B. No. 1079

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain exemptions from the regulation of mortgage
3 brokers.

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

5 SECTION 1. Sections 156.002(5) and (9), Finance Code, are
6 amended to read as follows:

7 (5) "Loan officer" means an individual sponsored by a
8 licensed mortgage broker for the purposes of performing the acts of
9 a mortgage broker. The term does not include:

10 (A) an individual who performs only clerical
11 functions such as delivering a loan application to a mortgage
12 broker [~~or mortgage banker~~] or gathering information related to a
13 mortgage loan application on behalf of the prospective borrower
14 or [~~7~~] mortgage broker [~~7, or mortgage banker~~]; or

15 (B) an individual who performs functions of a
16 loan processor.

17 (9) "Mortgage broker" means a person who receives an
18 application from a prospective borrower for the purposes of making
19 a mortgage loan from that person's own funds or from the funds of
20 another person. The term does not include:

21 (A) a person who performs only clerical functions
22 such as delivering a loan application to a mortgage broker [~~or~~
23 ~~mortgage banker~~] or gathering information related to a mortgage
24 loan application on behalf of the prospective borrower or [~~7~~]

1 mortgage broker [~~, or mortgage banker~~]; or

2 (B) a person who performs functions of a loan
3 processor.

4 SECTION 2. Section 156.202, Finance Code, is amended to
5 read as follows:

6 Sec. 156.202. EXEMPTIONS. This chapter does not apply to:

7 (1) any of the following entities or an employee of any
8 of the following entities provided the employee is acting for the
9 benefit of the employer:

10 (A) a bank, savings bank, or savings and loan
11 association, or a subsidiary or an affiliate of a bank, savings
12 bank, or savings and loan association;

13 (B) a state or federal credit union;

14 (C) an insurance company licensed or authorized
15 to do business in this state under the Insurance Code;

16 (D) [~~a mortgage banker,~~

17 [~~(E)~~] an organization that qualifies for an
18 exemption from state franchise and sales tax as a 501(c)(3)
19 organization; or

20 (E) [~~(F)~~] a Farm Credit System institution;

21 (2) an individual who makes a mortgage loan from the
22 individual's own funds to a spouse, former spouse, or persons in the
23 lineal line of consanguinity of the individual lending the money;

24 (3) an owner of real property who makes a mortgage loan
25 to a purchaser of the property for all or part of the purchase price
26 of the real estate against which the mortgage is secured; or

27 (4) an individual who:

1 (A) makes a mortgage loan from the individual's
2 own funds;

3 (B) is not an authorized lender under Chapter
4 342, Finance Code; and

5 (C) does not regularly engage in the business of
6 making or brokering mortgage loans.

7 SECTION 3. Section 156.002(8), Finance Code, is repealed.

8 SECTION 4. This Act takes effect September 1, 2003.