

By: Flynn

H.B. No. 2673

Substitute the following for H.B. No. 2673:

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C.S.H.B. No. 2673

A BILL TO BE ENTITLED

AN ACT

relating to the registration of mortgage bankers.

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

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 157 to read as follows:

CHAPTER 157. REGISTRATION OF MORTGAGE BANKERS

Sec. 157.001. SHORT TITLE. This chapter may be cited as the Mortgage Banker Registration Act.

Sec. 157.002. DEFINITIONS. In this chapter:

(1) "Commissioner" means the savings and loan commissioner.

(2) "Mortgage banker" means a person who:

(A) accepts an application for a mortgage loan or makes a mortgage loan; and

(B) is an approved or authorized:

(i) mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development;

(ii) seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(iii) issuer for the Government National Mortgage Association.

(3) "Mortgage loan" means a debt secured by a first

1 lien on residential real property designed principally for
2 occupancy by one to four families that is created by a deed of
3 trust, security deed, or other security instrument.

4 Sec. 157.003. REGISTRATION REQUIRED. (a) A person must
5 register under this chapter before the person may conduct the
6 business of a mortgage banker in this state, unless the person is
7 exempt under this section or Section 157.004.

8 (b) To register under this chapter, a mortgage banker shall
9 file with the commissioner a statement that contains:

10 (1) the name and address of the mortgage banker;

11 (2) the name, address, and telephone number of the
12 representative of the mortgage banker to be contacted regarding a
13 written complaint; and

14 (3) a list of the locations in this state at which the
15 person conducts the business of a mortgage banker.

16 (c) An employee of a mortgage banker is not required to
17 register under this chapter.

18 (d) The commissioner may not require a mortgage banker to
19 provide information other than information contained in the
20 registration statement.

21 (e) The registration of a mortgage banker is valid until
22 withdrawn or revoked. Periodic renewal of the registration is not
23 required.

24 Sec. 157.004. EXEMPTIONS. This chapter does not apply to:

25 (1) a federally insured bank, savings bank, savings
26 and loan association, Farm Credit System institution, or credit
27 union;

1 (2) an affiliate or subsidiary of a federally insured
2 bank, savings bank, savings and loan association, Farm Credit
3 System institution, or credit union;

4 (3) a person licensed as a mortgage broker under
5 Chapter 156; or

6 (4) an authorized lender licensed under Chapter 342
7 who delivers to an applicant for a mortgage loan, with the
8 application for a mortgage loan, a notice that is substantially
9 similar in content to the notice required by Section 157.007 and
10 provides the method of submitting complaints to the licensing
11 agency.

12 Sec. 157.005. UPDATE OF REGISTRATION STATEMENT. A mortgage
13 banker shall update information contained in the registration
14 statement not later than the 30th day after the date the information
15 changes.

16 Sec. 157.006. REGISTRATION AND ADMINISTRATION FEE. The
17 commissioner may charge a mortgage banker a reasonable fee to cover
18 the costs of filing the registration statement and administering
19 this chapter. The fee may not exceed \$500 a year.

20 Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker
21 shall include the following notice to a mortgage loan applicant
22 with an application for a mortgage loan:

23 "COMPLAINTS REGARDING MORTGAGE BANKERS SHOULD BE SENT TO THE
24 SAVINGS AND LOAN DEPARTMENT, _____ (street
25 address of the Savings and Loan Department). A TOLL-FREE CONSUMER
26 HOTLINE IS AVAILABLE AT _____ (telephone number of
27 the Savings and Loan Department's toll-free consumer hotline)."

1 Sec. 157.008. COMPLAINTS. (a) If the Savings and Loan
2 Department receives a signed written complaint from a person
3 concerning a mortgage banker, the commissioner shall notify the
4 representative designated by the mortgage banker under Section
5 157.003(b) in writing of the complaint and provide a copy of the
6 complaint to the representative.

7 (b) The commissioner may request documentary and other
8 evidence considered by the commissioner as necessary to effectively
9 evaluate the complaint, including correspondence, loan documents,
10 and disclosures. A mortgage banker shall promptly provide any
11 evidence requested by the commissioner.

12 (c) The commissioner may require the mortgage banker to
13 resolve the complaint or to provide the commissioner with a
14 response to the complaint. The commissioner may direct the
15 mortgage banker in writing to take specific action to resolve the
16 complaint.

17 Sec. 157.009. TERMINATION OF REGISTRATION. (a) A mortgage
18 banker may withdraw the mortgage banker's registration at any time.

19 (b) The commissioner may revoke the registration of a
20 mortgage banker if the mortgage banker fails to pay the
21 registration and administration fee and fails to cure the default
22 before the 30th day after the date the mortgage banker receives
23 notice of the default from the commissioner.

24 (c) The commissioner may revoke the registration of a
25 mortgage banker if the mortgage banker fails or refuses to comply
26 with the commissioner's written request for a response to a
27 complaint.

1 (d) The commissioner may revoke the registration of a
2 mortgage banker after considering a complaint filed under this
3 chapter if the commissioner concludes that the mortgage banker has
4 engaged in an intentional course of conduct to violate federal or
5 state law or has engaged in an intentional course of conduct that
6 constitutes improper, fraudulent, or dishonest dealings. The
7 commissioner shall recite the basis of the decision in an order
8 revoking the registration.

9 (e) If the commissioner proposes to revoke a registration
10 under Subsection (c) or (d), the mortgage banker is entitled to a
11 hearing before the commissioner or a hearings officer, who shall
12 propose a decision to the commissioner. The commissioner or
13 hearings officer shall prescribe the time and place of the hearing.
14 The hearing is governed by Chapter 2001, Government Code.

15 (f) A mortgage banker aggrieved by a ruling, order, or
16 decision of the commissioner is entitled to appeal to a district
17 court in the county in which the hearing was held. An appeal under
18 this subsection is governed by Chapter 2001, Government Code.

19 Sec. 157.010. REREGISTRATION. (a) A mortgage banker whose
20 registration is revoked by the commissioner may register again only
21 after receiving the authorization of the commissioner. The
22 commissioner shall authorize the registration if the commissioner
23 concludes that the mortgage banker will comply with state and
24 federal law and will not engage in improper, fraudulent, or
25 dishonest dealings.

26 (b) A mortgage banker who seeks registration under this
27 section may request and is entitled to a hearing before the

1 commissioner or a hearings officer, who shall propose a decision to
2 the commissioner. The hearing is governed by Chapter 2001,
3 Government Code.

4 (c) If the commissioner denies authorization for the
5 registration of a mortgage banker under this section, the
6 commissioner shall recite the basis of the decision in an order
7 denying the authorization.

8 (d) If the commissioner denies authorization for the
9 registration of a mortgage banker under this section, the mortgage
10 banker is entitled to appeal to a district court in Travis County.
11 An appeal brought under this subsection is governed by Chapter
12 2001, Government Code.

13 Sec. 157.011. RULEMAKING AUTHORITY. (a) The finance
14 commission may adopt rules necessary to implement or fulfill the
15 purpose of this chapter.

16 (b) The finance commission may by rule adopt standard forms
17 for, and require the use of the forms by, a mortgage banker who
18 represents that an applicant for a loan is preapproved or has
19 prequalified for the loan.

20 SECTION 2. This Act takes effect January 1, 2004.