

By: Flynn

H.B. No. 2673

A BILL TO BE ENTITLED

AN ACT

relating to registration of certain mortgage bankers.

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

SECTION 1. 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 takes an application for a mortgage loan or who makes a mortgage loan and who is:

(A) approved or authorized by the United States Department of Housing and Urban Development as a mortgagee with direct endorsement underwriting authority;

(B) an approved seller or servicer of the Federal National Mortgage Association;

(C) an approved seller or servicer of the Federal Home Loan Mortgage Corporation; or

(D) an approved issuer for the Governmental National Mortgage Association.

(3) "Mortgage Loan" means a debt against real estate

1 secured by a first-lien security interest against one-to-four  
2 family residential real estate created by a deed of trust, security  
3 deed, or other security instrument.

4 Sec. 157.003. REGISTRATION REQUIRED.

5 (A) Any person conducting the business of a  
6 mortgage banker in this state must be registered under this chapter  
7 unless exempt.

8 (B) Before conducting business in this state, a  
9 mortgage banker shall register with the commissioner by filing a  
10 statement that contains (1) the name and address of the  
11 registrant, (2) the name, address, and telephone number of the  
12 representative of the registrant to be contacted in the event of a  
13 written complaint, and (3) a list of the business locations in  
14 Texas of registrant's operations. Employees of a mortgage banker  
15 are not required to register.

16 (C) The commissioner may not require the  
17 registrant to provide information other than information contained  
18 in the registration statement.

19 (D) The registration is valid until withdrawn or  
20 canceled and periodic renewal is not required.

21 Section 157.004. EXEMPTIONS. This chapter does not apply  
22 to a federally insured bank, savings bank, savings and loan  
23 association, or credit union, or to an affiliate or subsidiary of a  
24 federally insured bank, savings bank, savings and loan association,  
25 or credit union, or to a person licensed in this state as a mortgage  
26 broker under Chapter 156.

27 Section 157.005. UPDATE OF REGISTRATION STATEMENT. A

1 mortgage banker shall update information contained in the  
2 registration statement not later than the 30th day after the date on  
3 which the information changes.

4 Section 157.006. REGISTRATION FEE. The commissioner may  
5 charge a mortgage banker a reasonable fee to cover the cost of  
6 filing the registration statement and administering this Act in an  
7 amount not to exceed \$500 per year.

8 Section 157.007. DISCLOSURE STATEMENT. A mortgage banker  
9 shall include the following notice to each mortgage loan applicant  
10 at the time of application: "COMPLAINTS REGARDING MORTGAGE BANKERS  
11 SHOULD BE SENT TO THE TEXAS SAVINGS AND LOAN DEPARTMENT, 2601 NORTH  
12 LAMAR, SUITE 201, AUSTIN, TEXAS 78705. A TOLL-FREE CONSUMER  
13 HOTLINE IS AVAILABLE AT 1-877-276-5550."

14 Section 157.008. COMPLAINTS. On the signed written  
15 complaint of a person against a specific mortgage banker, the  
16 commissioner shall notify the mortgage banker in writing of the  
17 complaint and provide a copy of the complaint. The commissioner may  
18 request and the mortgage banker shall promptly provide such  
19 documentary or other evidence as the commissioner deems necessary  
20 to effectively evaluate the complaint, including but not limited to  
21 correspondence, loan documents and disclosures. The commissioner  
22 may ask the mortgage banker to resolve the complaint and/or provide  
23 the commissioner with a response. The commissioner may direct the  
24 mortgage banker in writing to take specific action to resolve the  
25 complaint.

26 Section 157.009. TERMINATION OF REGISTRATION.

27 (A) A mortgage banker may withdraw or rescind its

1 registration at any time.

2 (B) The commissioner may revoke a registration if  
3 a mortgage banker fails to pay the annual fee within thirty days of  
4 the date the commissioner advises the mortgage banker payment is in  
5 default.

6 (C) The commissioner may revoke a registration if  
7 a mortgage banker fails or refuses to comply with the  
8 commissioner's written request for a response to a consumer  
9 complaint.

10 (D) The commissioner may revoke a registration  
11 if, after considering a complaint filed under this chapter, the  
12 commissioner concludes that a mortgage banker has engaged in an  
13 intentional course of conduct to violate federal or state law or is  
14 engaged in an intentional course of conduct that constitutes  
15 improper, fraudulent or dishonest dealings.

16 (E) If the commissioner proposes to suspend or  
17 revoke a registration under Section 157.009(C) or (D), the mortgage  
18 banker is entitled to a hearing before the commissioner or a  
19 hearings officer who shall make a proposal for decision to the  
20 commissioner. The commissioner or hearings officer shall prescribe  
21 the time and place of hearing. The hearing is governed by Chapter  
22 2001, Government Code.

23 (F) The commissioner may revoke the registration  
24 under Section 157.009(D) only if the commissioner concludes that  
25 the mortgage banker has engaged in an intentional course of conduct  
26 to violate state or federal law or has engaged in an intentional  
27 course of conduct that constitutes improper, fraudulent or

1 dishonest dealings. The commissioner shall recite in his order of  
2 termination or revocation the basis of that decision.

3 (G) A mortgage banker aggrieved by a ruling,  
4 order or decision of the commissioner has the right to appeal to a  
5 district court in the county in which the hearing was held. An  
6 appeal under this subsection is governed by Chapter 2001,  
7 Government Code.

8 Section 157.010. RE-REGISTRATION.

9 (A) A mortgage banker whose registration was  
10 previously terminated by action of the commissioner can register  
11 again only with the prior authorization or approval of the  
12 commissioner. The commissioner shall give that authorization and  
13 approval for the registration if the commissioner concludes that  
14 the mortgage banker will operate in compliance with state and  
15 federal law and not engage in improper, fraudulent, or dishonest  
16 dealings.

17 (B) A mortgage banker who seeks re-registration  
18 may request and is entitled to a hearing before the commissioner or  
19 a hearings officer who shall make a proposal for decision to the  
20 commissioner. The hearing is governed by Chapter 2001, Government  
21 Code.

22 (C) If the commissioner denies authorization for  
23 the re-registration, the commissioner shall set out the basis of  
24 his decision in an order.

25 (D) If the commissioner denies or refuses to  
26 grant permission for the re-registration, the denied mortgage  
27 banker has the right to appeal to a district court in Travis County.

H.B. No. 2673

1 An appeal under this subsection is governed by Chapter 2001,  
2 Government Code.

3 SECTION 2. This Act takes effect September 1, 2003.