

By: Staples

S.B. No. 252

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22 withdrawn or revoked.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, or credit union;

27 (2) an affiliate or subsidiary of a federally insured

1 bank, savings bank, savings and loan association, or credit union;

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

4 (4) an authorized lender licensed under Chapter 342
5 if:

6 (A) the authorized lender includes with an
7 application for a mortgage loan a notice that is substantially
8 similar to the notice required by Section 157.007 and provides the
9 method of submitting complaints to the consumer credit
10 commissioner;

11 (B) the authorized lender uses the forms adopted
12 by the Finance Commission of Texas under Section 157.011(b); and

13 (C) the Finance Commission of Texas determines by
14 rule that the consumer credit commissioner may suspend or revoke a
15 license issued under Chapter 342 if the authorized lender engages
16 in unlawful or unfair practices while making a mortgage loan.

17 Sec. 157.005. UPDATE OF REGISTRATION STATEMENT. A mortgage
18 banker shall update information contained in the registration
19 statement not later than the 30th day after the date the information
20 changes.

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

25 Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker
26 shall include the following notice to a mortgage loan applicant
27 with an application for a mortgage loan:

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

6 Sec. 157.008. COMPLAINTS. (a) If the Savings and Loan
7 Department receives a signed written complaint from a person
8 concerning a mortgage banker, the commissioner shall notify the
9 representative designated by the mortgage banker under Section
10 157.003(b) in writing of the complaint and provide a copy of the
11 complaint to the representative.

12 (b) The commissioner may request documentary and other
13 evidence considered by the commissioner as necessary to effectively
14 evaluate the complaint, including correspondence, loan documents,
15 and disclosures. A mortgage banker shall promptly provide any
16 evidence requested by the commissioner.

17 (c) The commissioner may require the mortgage banker to
18 resolve the complaint or to provide the commissioner with a
19 response to the complaint. The commissioner may direct the
20 mortgage banker in writing to take specific action to resolve the
21 complaint.

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

24 (b) The commissioner may revoke the registration of a
25 mortgage banker if the mortgage banker fails to pay the
26 registration and administration fee and fails to cure the default
27 before the 30th day after the date the mortgage banker receives

1 notice of the default from the commissioner.

2 (c) The commissioner may revoke the registration of a
3 mortgage banker if the mortgage banker fails or refuses to comply
4 with the commissioner's written request for a response to a
5 complaint.

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

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

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

24 Sec. 157.010. REREGISTRATION. (a) A mortgage banker whose
25 registration is revoked by the commissioner may register again only
26 after receiving the authorization of the commissioner. The
27 commissioner shall authorize the registration if the commissioner

1 concludes that the mortgage banker will comply with state and
2 federal law and will not engage in improper, fraudulent, or
3 dishonest dealings.

4 (b) A mortgage banker who seeks registration under this
5 section may request and is entitled to a hearing before the
6 commissioner or a hearings officer, who shall propose a decision to
7 the commissioner. The hearing is governed by Chapter 2001,
8 Government Code.

9 (c) If the commissioner denies authorization for the
10 registration of a mortgage banker under this section, the
11 commissioner shall recite the basis of the decision in an order
12 denying the authorization.

13 (d) If the commissioner denies authorization for the
14 registration of a mortgage banker under this section, the mortgage
15 banker is entitled to appeal to a district court in Travis County.
16 An appeal brought under this subsection is governed by Chapter
17 2001, Government Code.

18 Sec. 157.011. RULEMAKING AUTHORITY. (a) The Finance
19 Commission of Texas may adopt rules necessary to implement or
20 fulfill the purpose of this chapter.

21 (b) The Finance Commission of Texas may by rule adopt
22 standard forms for, and require the use of the forms by, a mortgage
23 banker who represents that an applicant for a loan is preapproved or
24 has prequalified for the loan.

25 SECTION 2. A person serving as a public member of the
26 Finance Commission of Texas immediately before the effective date
27 of this Act who is the spouse of a mortgage banker required to

1 register under Chapter 157, Finance Code, as added by this Act, may
2 complete the person's term, notwithstanding Subsection (d),
3 Section 11.102, Finance Code.

4 SECTION 3. This Act takes effect January 1, 2004.

1 COMMITTEE AMENDMENT NO. 1

2 Amend S.B. No. 252 as follows:

3 (1) In SECTION 1 of the bill, in added Section 157.004(1),
4 Finance Code (engrossed version, page 2, line 26), between
5 "association," and "or credit" insert "Farm Credit System
6 Institution,".

7 (2) In SECTION 1 of the bill, in added Section 157.004(2),
8 Finance Code (engrossed version, page 3, line 1), between
9 "association," and "or credit" insert "Farm Credit System
10 Institution,".

11 78R14520 ATP-D

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