

1-1 By: Staples S.B. No. 252  
1-2 (In the Senate - Filed January 24, 2003; February 5, 2003,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 April 10, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 10, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 252 By: Fraser

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the registration of mortgage bankers.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Subtitle E, Title 3, Finance Code, is amended by  
1-13 adding Chapter 157 to read as follows:  
1-14 CHAPTER 157. REGISTRATION OF MORTGAGE BANKERS  
1-15 Sec. 157.001. SHORT TITLE. This chapter may be cited as the  
1-16 Mortgage Banker Registration Act.  
1-17 Sec. 157.002. DEFINITIONS. In this chapter:  
1-18 (1) "Commissioner" means the savings and loan  
1-19 commissioner.  
1-20 (2) "Mortgage banker" means a person who:  
1-21 (A) accepts an application for a mortgage loan or  
1-22 makes a mortgage loan; and  
1-23 (B) is an approved or authorized:  
1-24 (i) mortgagee with direct endorsement  
1-25 underwriting authority granted by the United States Department of  
1-26 Housing and Urban Development;  
1-27 (ii) seller or servicer of the Federal  
1-28 National Mortgage Association or the Federal Home Loan Mortgage  
1-29 Corporation; or  
1-30 (iii) issuer for the Government National  
1-31 Mortgage Association.  
1-32 (3) "Mortgage loan" means a debt secured by a first  
1-33 lien on residential real property designed principally for  
1-34 occupancy by one to four families that is created by a deed of  
1-35 trust, security deed, or other security instrument.  
1-36 Sec. 157.003. REGISTRATION REQUIRED. (a) A person must  
1-37 register under this chapter before the person may conduct the  
1-38 business of a mortgage banker in this state, unless the person is  
1-39 exempt under this section or Section 157.004.  
1-40 (b) To register under this chapter, a mortgage banker shall  
1-41 file with the commissioner a statement that contains:  
1-42 (1) the name and address of the mortgage banker;  
1-43 (2) the name, address, and telephone number of the  
1-44 representative of the mortgage banker to be contacted regarding a  
1-45 written complaint; and  
1-46 (3) a list of the locations in this state at which the  
1-47 person conducts the business of a mortgage banker.  
1-48 (c) An employee of a mortgage banker is not required to  
1-49 register under this chapter.  
1-50 (d) The commissioner may not require a mortgage banker to  
1-51 provide information other than information contained in the  
1-52 registration statement.  
1-53 (e) The registration of a mortgage banker is valid until  
1-54 withdrawn or revoked. Periodic renewal of the registration is not  
1-55 required.  
1-56 Sec. 157.004. EXEMPTIONS. This chapter does not apply to:  
1-57 (1) a federally insured bank, savings bank, savings  
1-58 and loan association, or credit union;  
1-59 (2) an affiliate or subsidiary of a federally insured  
1-60 bank, savings bank, savings and loan association, or credit union;  
1-61 or  
1-62 (3) a person licensed as a mortgage broker under  
1-63 Chapter 156.

2-1 Sec. 157.005. UPDATE OF REGISTRATION STATEMENT. A mortgage  
 2-2 banker shall update information contained in the registration  
 2-3 statement not later than the 30th day after the date the information  
 2-4 changes.

2-5 Sec. 157.006. REGISTRATION AND ADMINISTRATION FEE. The  
 2-6 commissioner may charge a mortgage banker a reasonable fee to cover  
 2-7 the costs of filing the registration statement and administering  
 2-8 this chapter. The fee may not exceed \$500 a year.

2-9 Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker  
 2-10 shall include the following notice to a mortgage loan applicant  
 2-11 with an application for a mortgage loan:

2-12 "COMPLAINTS REGARDING MORTGAGE BANKERS SHOULD BE SENT TO THE  
 2-13 SAVINGS AND LOAN DEPARTMENT, \_\_\_\_\_ (street  
 2-14 address of the Savings and Loan Department). A TOLL-FREE CONSUMER  
 2-15 HOTLINE IS AVAILABLE AT \_\_\_\_\_ (telephone number of  
 2-16 the Savings and Loan Department's toll-free consumer hotline)."

2-17 Sec. 157.008. COMPLAINTS. (a) If the Savings and Loan  
 2-18 Department receives a signed written complaint from a person  
 2-19 concerning a mortgage banker, the commissioner shall notify the  
 2-20 representative designated by the mortgage banker under Section  
 2-21 157.003(b) in writing of the complaint and provide a copy of the  
 2-22 complaint to the representative.

2-23 (b) The commissioner may request documentary and other  
 2-24 evidence considered by the commissioner as necessary to effectively  
 2-25 evaluate the complaint, including correspondence, loan documents,  
 2-26 and disclosures. A mortgage banker shall promptly provide any  
 2-27 evidence requested by the commissioner.

2-28 (c) The commissioner may require the mortgage banker to  
 2-29 resolve the complaint or to provide the commissioner with a  
 2-30 response to the complaint. The commissioner may direct the  
 2-31 mortgage banker in writing to take specific action to resolve the  
 2-32 complaint.

2-33 Sec. 157.009. TERMINATION OF REGISTRATION. (a) A mortgage  
 2-34 banker may withdraw the mortgage banker's registration at any time.

2-35 (b) The commissioner may revoke the registration of a  
 2-36 mortgage banker if the mortgage banker fails to pay the  
 2-37 registration and administration fee and fails to cure the default  
 2-38 before the 30th day after the date the mortgage banker receives  
 2-39 notice of the default from the commissioner.

2-40 (c) The commissioner may revoke the registration of a  
 2-41 mortgage banker if the mortgage banker fails or refuses to comply  
 2-42 with the commissioner's written request for a response to a  
 2-43 complaint.

2-44 (d) The commissioner may revoke the registration of a  
 2-45 mortgage banker after considering a complaint filed under this  
 2-46 chapter if the commissioner concludes that the mortgage banker has  
 2-47 engaged in an intentional course of conduct to violate federal or  
 2-48 state law or has engaged in an intentional course of conduct that  
 2-49 constitutes improper, fraudulent, or dishonest dealings. The  
 2-50 commissioner shall recite the basis of the decision in an order  
 2-51 revoking the registration.

2-52 (e) If the commissioner proposes to revoke a registration  
 2-53 under Subsection (c) or (d), the mortgage banker is entitled to a  
 2-54 hearing before the commissioner or a hearings officer, who shall  
 2-55 propose a decision to the commissioner. The commissioner or  
 2-56 hearings officer shall prescribe the time and place of the hearing.  
 2-57 The hearing is governed by Chapter 2001, Government Code.

2-58 (f) A mortgage banker aggrieved by a ruling, order, or  
 2-59 decision of the commissioner is entitled to appeal to a district  
 2-60 court in the county in which the hearing was held. An appeal under  
 2-61 this subsection is governed by Chapter 2001, Government Code.

2-62 Sec. 157.010. REREGISTRATION. (a) A mortgage banker whose  
 2-63 registration is revoked by the commissioner may register again only  
 2-64 after receiving the authorization of the commissioner. The  
 2-65 commissioner shall authorize the registration if the commissioner  
 2-66 concludes that the mortgage banker will comply with state and  
 2-67 federal law and will not engage in improper, fraudulent, or  
 2-68 dishonest dealings.

2-69 (b) A mortgage banker who seeks registration under this

3-1 section may request and is entitled to a hearing before the  
3-2 commissioner or a hearings officer, who shall propose a decision to  
3-3 the commissioner. The hearing is governed by Chapter 2001,  
3-4 Government Code.

3-5 (c) If the commissioner denies authorization for the  
3-6 registration of a mortgage banker under this section, the  
3-7 commissioner shall recite the basis of the decision in an order  
3-8 denying the authorization.

3-9 (d) If the commissioner denies authorization for the  
3-10 registration of a mortgage banker under this section, the mortgage  
3-11 banker is entitled to appeal to a district court in Travis County.  
3-12 An appeal brought under this subsection is governed by Chapter  
3-13 2001, Government Code.

3-14 Sec. 157.011. RULEMAKING AUTHORITY. (a) The Finance  
3-15 Commission of Texas may adopt rules necessary to implement or  
3-16 fulfill the purpose of this chapter.

3-17 (b) The Finance Commission of Texas may by rule adopt  
3-18 standard forms for, and require the use of the forms by, a mortgage  
3-19 banker who represents that an applicant for a loan is preapproved or  
3-20 has prequalified for the loan.

3-21 SECTION 2. A person serving as a public member of the  
3-22 Finance Commission of Texas immediately before the effective date  
3-23 of this Act who is the spouse of a mortgage banker required to  
3-24 register under Chapter 157, Finance Code, as added by this Act, may  
3-25 complete the person's term, notwithstanding Subsection (d),  
3-26 Section 11.102, Finance Code.

3-27 SECTION 3. This Act takes effect January 1, 2004.

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