

By: Williams

S.B. No. 1719

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 registrant,
11 (2) the name, address, and telephone number of the representative
12 of the registrant to be contacted in the event of a written
13 complaint, and (3) a list of the business locations in Texas of
14 registrant's operations. Employees of a mortgage banker are not
15 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19 (D) The registration is valid until withdrawn or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 BANKER
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 the hearing. The hearing is governed by
22 Chapter 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.

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

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