

BILL ANALYSIS

C.S.H.B. 1716
By: Solomons
Financial Institutions
Committee Report (Substituted)

BACKGROUND AND PURPOSE

National mortgage service companies are regulated by the federal government. While their loan officers are licensed by the Texas Department of Savings and Mortgage Lending, concern exists that the federal government may preempt their licenses. C.S.H.B. 1716 would address these concerns by allowing a registered financial services company to be register and licensed in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1716 amends the Finance Code to define registered financial service companies as a person registered under Section 156.214. C.S.H.B. 1716 exempts an individual who is an exclusive agent of a registered financial services company under a written agreement prohibiting the individual from soliciting, processing, negotiating, or placing a mortgage loan with a person other than the registered financial services company or an affiliate of that company. C.S.H.B. 1716 amends the Finance Code to add Section 156.214, the Registered Financial Services Company. A registered financial services company may perform the services of a mortgage broker as if the company were licensed as a mortgage broker under this chapter, through individuals who are the exclusive agents of the registered financial services company. In order to be eligible as a registered financial services company, a person must be a depository institution exempt from this chapter under Section 156.202(1)(A) or (B) and chartered and regulated by the Office of Thrift Supervision or the Office of the Comptroller of the Currency, or be a subsidiary or affiliate of the institution.

C.S.H.B. 1716 requires that the person must provide to the commissioner: satisfactory evidence of accountability, supported by a surety bond equal to \$1 million; business plan to provide education to its exclusive agents, handle consumer complaints relating to its exclusive agents, and supervise the mortgage broker activities of its exclusive agents; pay an annual registration fee of the lesser of: one-half of the license fee for a loan officer under Section 156.203(c)(1), multiplied by the number of exclusive agents under contract to act for the person in this state; or \$200,000; and designate an officer of the person to be responsible for the activities of the exclusive agents. If the commissioner determines that a person has met the requirements of Subsection (b), the commissioner shall issue a registration to the person. The registration is valid for one year and may be renewed on or before its expiration date. A person may renew an expired registration in the same manner as a person may renew an expired license under Section 156.2081(b).

C.S.H.B. 1716 subjects a registered financial services company to Subchapters D and E as if the company were licensed as a mortgage broker. No person may be an exclusive agent of a registered financial services company without the prior consent of the commissioner if the individual has been convicted of a criminal offense involving dishonesty, breach of trust, or money laundering; or pled guilty or nolo contendere in connection with a prosecution for an offense described in this subdivision; or agreed to enter into a pretrial diversion or similar program in connection with a prosecution for an offense described in this subdivision; or been the subject of a revocation or suspension of any professional license in this state or any other jurisdiction. Prior to the registered financial services company shall submit to the commissioner

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such information as the commissioner may require relating to the person together with a fingerprint imprint of the person. The commissioner shall obtain criminal history record information and may assess a fee in an amount determined by the finance commission to cover the cost of the criminal background check. This section does not apply to a person who is licensed as a mortgage broker or loan officer under Chapter 156 at the time he becomes an exclusive agent of a registered financial services company. The commissioner shall notify the person and the registered financial services company of his determination as to whether or not the person is eligible to be an exclusive agent under Subsection (a). A person who is determined to be ineligible may appeal the decision of the commissioner in the same manner as an appeal may be made under Section 156.209.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1716 amends the original language for disqualification of exclusive agents of registered financial services company. C.S.H.B. 1716 states that no person may be an exclusive agent of a registered financial services company without the prior consent of the commissioner if the individual has been convicted of a criminal offense involving dishonesty, breach of trust, or money laundering; or pled guilty or nolo contendere in connection with a prosecution for an offense described in this subdivision; or agreed to enter into a pretrial diversion or similar program in connection with a prosecution for an offense described in this subdivision; or been the subject of a revocation or suspension of any professional license in this state or any other jurisdiction. Prior to the registered financial services company shall submit to the commissioner such information as the commissioner may require relating to the person together with a fingerprint imprint of the person. The commissioner shall obtain criminal history record information and may assess a fee in an amount determined by the finance commission to cover the cost of the criminal background check. This section does not apply to a person who is licensed as a mortgage broker or loan officer under Chapter 156 at the time he becomes an exclusive agent of a registered financial services company. The commissioner shall notify the person and the registered financial services company of his determination as to whether or not the person is eligible to be an exclusive agent under Subsection (a). A person who is determined to be ineligible may appeal the decision of the commissioner in the same manner as an appeal may be made under Section 156.209.