

By: Solomons

H.B. No. 1716

Substitute the following for H.B. No. 1716:

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C.S.H.B. No. 1716

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the registration of a registered financial services
3 company and the authority of its exclusive agents to act as mortgage
4 brokers.

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

6 SECTION 1. Section 156.002, Finance Code, is amended by
7 adding Subdivision (11) to read as follows:

8 (11) "Registered financial services company" means a
9 person registered under Section 156.214.

10 SECTION 2. Section 156.202, Finance Code, is amended to
11 read as follows:

12 Sec. 156.202. EXEMPTIONS. The following persons are exempt
13 from this [This] chapter [~~does not apply to~~]:

14 (1) any of the following entities or an employee of any
15 of the following entities provided the employee is acting for the
16 benefit of the employer:

17 (A) a bank, savings bank, or savings and loan
18 association, or a subsidiary or an affiliate of a bank, savings
19 bank, or savings and loan association;

20 (B) a state or federal credit union, or a
21 subsidiary, affiliate, or credit union service organization of a
22 state or federal credit union;

23 (C) an insurance company licensed or authorized
24 to do business in this state under the Insurance Code;

1 (D) a mortgage banker registered under Chapter
2 157;

3 (E) an organization that qualifies for an
4 exemption from state franchise and sales tax as a 501(c)(3)
5 organization;

6 (F) a Farm Credit System institution; or

7 (G) a political subdivision of this state
8 involved in affordable home ownership programs;

9 (2) an individual who makes a mortgage loan from the
10 individual's own funds to a spouse, former spouse, or persons in the
11 lineal line of consanguinity of the individual lending the money;

12 (3) an owner of real property who makes a mortgage loan
13 to a purchaser of the property for all or part of the purchase price
14 of the real estate against which the mortgage is secured; ~~[or]~~

15 (4) an individual who:

16 (A) makes a mortgage loan from the individual's
17 own funds;

18 (B) is not an authorized lender under Chapter
19 342, Finance Code; and

20 (C) does not regularly engage in the business of
21 making or brokering mortgage loans; or

22 (5) an individual who is an exclusive agent of a
23 registered financial services company under a written agreement
24 prohibiting the individual from soliciting, processing,
25 negotiating, or placing a mortgage loan with a person other than the
26 registered financial services company or an affiliate of that
27 company.

1 SECTION 3. Subchapter C, Chapter 156, Finance Code, is
2 amended by adding Section 156.214 to read as follows:

3 Sec. 156.214. REGISTERED FINANCIAL SERVICES COMPANY. (a)

4 A registered financial services company may perform the services of
5 a mortgage broker as if the company were licensed as a mortgage
6 broker under this chapter, through individuals who are the
7 exclusive agents of the registered financial services company.

8 (b) To be eligible to register as a registered financial
9 services company, a person must:

10 (1) be a depository institution exempt from this
11 chapter under Section 156.202(1)(A) or (B) and chartered and
12 regulated by the Office of Thrift Supervision or the Office of the
13 Comptroller of the Currency, or be a subsidiary or affiliate of the
14 institution;

15 (2) provide the commissioner with satisfactory
16 evidence of an undertaking of accountability in a form acceptable
17 to the commissioner, supported by a surety bond equal to \$1 million
18 to cover the person's responsibility for mortgage broker activities
19 of each exclusive agent;

20 (3) provide a business plan satisfactory to the
21 commissioner that sets forth the person's plan to provide education
22 to its exclusive agents, handle consumer complaints relating to its
23 exclusive agents, and supervise the mortgage broker activities of
24 its exclusive agents;

25 (4) pay an annual registration fee of the lesser of:

26 (A) one-half of the license fee for a loan
27 officer under Section 156.203(c)(1), multiplied by the number of

1 exclusive agents under contract to act for the person in this state;

2 or

3 (B) \$200,000; and

4 (5) designate an officer of the person to be
5 responsible for the activities of the exclusive agents.

6 (c) If the commissioner determines that a person has met the
7 requirements of Subsection (b), the commissioner shall issue a
8 registration to the person. The registration is valid for one year
9 and may be renewed on or before its expiration date. A person may
10 renew an expired registration in the same manner as a person may
11 renew an expired license under Section 156.2081(b).

12 (d) A registered financial services company is subject to
13 Subchapters D and E as if the company were licensed as a mortgage
14 broker.

15 (e) No person may be an exclusive agent of a registered
16 financial services company without the prior consent of the
17 commissioner if the individual has:

18 (1) been convicted of a criminal offense involving
19 dishonesty, breach of trust, or money laundering; or pled guilty or
20 nolo contendere in connection with a prosecution for an offense
21 described in this subdivision; or agreed to enter into a pretrial
22 diversion or similar program in connection with a prosecution for
23 an offense described in this subdivision; or

24 (2) been the subject of a revocation or suspension of
25 any professional license in this state or any other jurisdiction.

26 (f) Prior to the registered financial services company
27 shall submit to the commissioner such information as the

1 commissioner may require relating to the person together with a
2 fingerprint imprint of the person. The commissioner shall obtain
3 criminal history record information as provided in Section
4 156.206(b). The commissioner may assess a fee in an amount
5 determined by the finance commission to cover the cost of the
6 criminal background check. This section does not apply to a person
7 who is licensed as a mortgage broker or loan officer under Chapter
8 156 at the time he becomes an exclusive agent of a registered
9 financial services company.

10 (g) The commissioner shall notify the person and the
11 registered financial services company of his determination as to
12 whether or not the person is eligible to be an exclusive agent under
13 Subsection (a). A person who is determined to be ineligible may
14 appeal the decision of the commissioner in the same manner as an
15 appeal may be made under Section 156.209.

16 SECTION 4. This Act takes effect September 1, 2007.