

1-1 By: Paxton (Senate Sponsor - Wentworth) H.B. No. 2908  
1-2 (In the Senate - Received from the House April 29, 2009;  
1-3 May 12, 2009, read first time and referred to Committee on  
1-4 Administration; May 22, 2009, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 May 22, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2908 By: Wentworth

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

1-10 relating to the regulation of property tax lenders and the  
1-11 confidentiality of certain information obtained or compiled by the  
1-12 consumer credit commissioner on examination of property tax lenders  
1-13 and certain other license holders or registrants.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter E, Chapter 14, Finance Code, is  
1-16 amended by adding Section 14.2015 to read as follows:

1-17 Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION. (a)  
1-18 Except as provided by Subsection (b), information or material  
1-19 obtained or compiled by the commissioner in relation to an  
1-20 examination by the commissioner or the commissioner's  
1-21 representative of a license holder or registrant under Subtitle B  
1-22 or C, Title 4, or Chapter 394 is confidential and may not be  
1-23 disclosed by the commissioner or an officer or employee of the  
1-24 Office of Consumer Credit Commissioner, including:

1-25 (1) information obtained from a license holder or  
1-26 registrant under Subtitle B or C, Title 4, or Chapter 394;

1-27 (2) work performed by the commissioner or the  
1-28 commissioner's representative on information obtained from a  
1-29 license holder or registrant for the purposes of an examination  
1-30 conducted under Subtitle B or C, Title 4, or Chapter 394;

1-31 (3) a report on an examination of a license holder or  
1-32 registrant conducted under Subtitle B or C, Title 4, or Chapter 394;  
1-33 and

1-34 (4) any written communications between the license  
1-35 holder or registrant, as applicable, and the commissioner or the  
1-36 commissioner's representative relating to or referencing an  
1-37 examination conducted under Subtitle B or C, Title 4, or Chapter  
1-38 394.

1-39 (b) The commissioner or the commissioner's representative  
1-40 may disclose the confidential information or material described by  
1-41 Subsection (a):

1-42 (1) to a department, agency, or instrumentality of  
1-43 this state or the United States if the commissioner considers  
1-44 disclosure to be necessary or proper to the enforcement of the laws  
1-45 of this state or the United States and in the best interest of the  
1-46 public;

1-47 (2) if the license holder or registrant consents to  
1-48 the release of the information or has published the information  
1-49 contained in the release; or

1-50 (3) if the commissioner determines that release of the  
1-51 information is required for an administrative hearing.

1-52 SECTION 2. Section 351.004, Finance Code, as added by  
1-53 Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular  
1-54 Session, 2007, is amended to read as follows:

1-55 Sec. 351.004. AFFILIATED BUSINESS ARRANGEMENTS. A property  
1-56 tax lender may conduct business under this chapter in an office,  
1-57 office suite, room, or place of business in which any other business  
1-58 is conducted or in combination with any other business unless the  
1-59 commissioner:

1-60 (1) determines after a hearing that the conduct of the  
1-61 other business in that office, office suite, room, or place of  
1-62 business has concealed an evasion of this chapter; and

1-63 (2) orders the lender in writing to desist from the

2-1 conduct of the other business in that office, office suite, room, or  
2-2 place of business. [This chapter may not be construed to prevent  
2-3 affiliated or controlled business arrangements or loan origination  
2-4 services by or between a property tax lender and other  
2-5 professionals.]

2-6 SECTION 3. Subchapter A, Chapter 351, Finance Code, as  
2-7 added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature,  
2-8 Regular Session, 2007, is amended by adding Sections 351.008  
2-9 through 351.011 to read as follows:

2-10 Sec. 351.008. EXAMINATION OF LENDERS; ACCESS TO RECORDS.

2-11 (a) The commissioner or the commissioner's representative shall,  
2-12 at the times the commissioner or the representative considers  
2-13 necessary:

2-14 (1) examine each place of business of each property  
2-15 tax lender; and

2-16 (2) investigate the lender's transactions, including  
2-17 loans, and records, including books, accounts, papers, and  
2-18 correspondence, to the extent the transactions and records pertain  
2-19 to the business regulated under this chapter and Sections 32.06 and  
2-20 32.065, Tax Code.

2-21 (b) The property tax lender shall:

2-22 (1) give the commissioner or the commissioner's  
2-23 representative free access to the lender's office, place of  
2-24 business, files, safes, and vaults; and

2-25 (2) allow the commissioner or the representative to  
2-26 make a copy of an item that may be investigated under Subsection  
2-27 (a)(2).

2-28 (c) During an examination, the commissioner or the  
2-29 commissioner's representative may administer oaths and examine any  
2-30 person under oath on any subject pertinent to a matter that the  
2-31 commissioner or the representative is authorized or required to  
2-32 consider, investigate, or secure information about under this  
2-33 chapter or Section 32.06 or 32.065, Tax Code.

2-34 (d) Information obtained under this section is  
2-35 confidential.

2-36 (e) A property tax lender's violation of Subsection (b) is a  
2-37 ground for the suspension or revocation of the lender's license.

2-38 Sec. 351.009. GENERAL INVESTIGATION. (a) To discover a  
2-39 violation of this chapter or Section 32.06 or 32.065, Tax Code, or  
2-40 to obtain information required under this chapter or Section 32.06  
2-41 or 32.065, Tax Code, the commissioner or the commissioner's  
2-42 representative may investigate the records, including books,  
2-43 accounts, papers, and correspondence, of a person, including a  
2-44 property tax lender, who the commissioner or the representative has  
2-45 reasonable cause to believe is violating this chapter or Section  
2-46 32.06 or 32.065, Tax Code, regardless of whether the person claims  
2-47 to not be subject to this chapter or Section 32.06 or 32.065, Tax  
2-48 Code.

2-49 (b) For the purposes of this section, a person who  
2-50 advertises, solicits, or otherwise represents that the person is  
2-51 willing to make a property tax loan is presumed to be engaged in the  
2-52 business described by Section 351.051.

2-53 Sec. 351.010. REFUSAL TO ALLOW EXAMINATION OR INSPECTION.  
2-54 A property tax lender who fails or refuses to permit an examination  
2-55 or investigation authorized by this subchapter violates this  
2-56 chapter. The failure or refusal is grounds for the suspension or  
2-57 revocation of the lender's license.

2-58 Sec. 351.011. VERIFICATION OF NET ASSETS. If the  
2-59 commissioner questions the amount of a property tax lender's net  
2-60 assets, the commissioner may require certification by an  
2-61 independent certified public accountant that:

2-62 (1) the accountant has reviewed the property tax  
2-63 lender's books, other records, and transactions during the  
2-64 reporting year;

2-65 (2) the books and other records are maintained using  
2-66 generally accepted accounting principles; and

2-67 (3) the property tax lender meets the net assets  
2-68 requirement of Section 351.153.

2-69 SECTION 4. Section 32.06(a-4), Tax Code, is amended to read

3-1 as follows:  
3-2 (a-4) The Finance Commission of Texas shall:  
3-3 (1) prescribe the form and content of an appropriate  
3-4 disclosure statement to be provided to a property owner before the  
3-5 execution of a tax lien transfer; ~~and~~  
3-6 (2) adopt rules relating to the reasonableness of  
3-7 closing costs, fees, and other charges permitted under this  
3-8 section; and  
3-9 (3) by rule prescribe the form and content of the sworn  
3-10 document under Subsection (a-1) and the certified statement under  
3-11 Subsection (b).  
3-12 SECTION 5. This Act takes effect September 1, 2009.

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