

AN ACT

relating to examinations by the consumer credit commissioner with regard to the regulation of property tax lenders and certain other lenders and debt management counselors.

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

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

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

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

(2) orders the lender in writing to desist from the conduct of the other business in that office, office suite, room, or place of business [~~This chapter may not be construed to prevent affiliated or controlled business arrangements or loan origination services by or between a property tax lender and other professionals~~].

SECTION 2. Subchapter A, Chapter 351, Finance Code, as added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature,

1 Regular Session, 2007, is amended by adding Sections 351.008
2 through 351.011 to read as follows:

3 Sec. 351.008. EXAMINATION OF LENDERS; ACCESS TO RECORDS.

4 (a) The commissioner or the commissioner's representative shall,
5 at the times the commissioner or the representative considers
6 necessary:

7 (1) examine each place of business of each property
8 tax lender; and

9 (2) investigate the lender's transactions, including
10 loans, and records, including books, accounts, papers, and
11 correspondence, to the extent the transactions and records pertain
12 to the business regulated under this chapter and Sections 32.06 and
13 32.065, Tax Code.

14 (b) The property tax lender shall:

15 (1) give the commissioner or the commissioner's
16 representative free access to the lender's office, place of
17 business, files, safes, and vaults; and

18 (2) allow the commissioner or the representative to
19 make a copy of an item that may be investigated under Subsection
20 (a)(2).

21 (c) During an examination, the commissioner or the
22 commissioner's representative may administer oaths and examine any
23 person under oath on any subject pertinent to a matter that the
24 commissioner or the representative is authorized or required to
25 consider, investigate, or secure information about under this
26 chapter or Section 32.06 or 32.065, Tax Code.

27 (d) Information obtained under this section is

1 confidential.

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

4 Sec. 351.009. GENERAL INVESTIGATION. (a) To discover a
5 violation of this chapter or Section 32.06 or 32.065, Tax Code, or
6 to obtain information required under this chapter or Section 32.06
7 or 32.065, Tax Code, the commissioner or the commissioner's
8 representative may investigate the records, including books,
9 accounts, papers, and correspondence, of a person, including a
10 property tax lender, who the commissioner or the representative has
11 reasonable cause to believe is violating this chapter or Section
12 32.06 or 32.065, Tax Code, regardless of whether the person claims
13 to not be subject to this chapter or Section 32.06 or 32.065, Tax
14 Code.

15 (b) For the purposes of this section, a person who
16 advertises, solicits, or otherwise represents that the person is
17 willing to make a property tax loan is presumed to be engaged in the
18 business described by Section 351.051.

19 Sec. 351.010. REFUSAL TO ALLOW EXAMINATION OR INSPECTION.
20 A property tax lender who fails or refuses to permit an examination
21 or investigation authorized by this subchapter violates this
22 chapter. The failure or refusal is grounds for the suspension or
23 revocation of the lender's license.

24 Sec. 351.011. VERIFICATION OF NET ASSETS. If the
25 commissioner questions the amount of a property tax lender's net
26 assets, the commissioner may require certification by an
27 independent certified public accountant that:

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

4 (2) the books and other records are maintained using
5 generally accepted accounting principles; and

6 (3) the property tax lender meets the net assets
7 requirement of Section 351.153.

8 SECTION 3. Subchapter E, Chapter 14, Finance Code, is
9 amended by adding Section 14.2015 to read as follows:

10 Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION.

11 (a) Except as provided by Subsection (b), information or material
12 obtained or compiled by the commissioner in relation to an
13 examination by the commissioner or the commissioner's
14 representative of a license holder or registrant under Subtitle B
15 or C, Title 4, or Chapter 394 is confidential and may not be
16 disclosed by the commissioner or an officer or employee of the
17 Office of Consumer Credit Commissioner, including:

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

20 (2) work performed by the commissioner or the
21 commissioner's representative on information obtained from a
22 license holder or registrant for the purposes of an examination
23 conducted under Subtitle B or C, Title 4, or Chapter 394;

24 (3) a report on an examination of a license holder or
25 registrant conducted under Subtitle B or C, Title 4, or Chapter 394;
26 and

27 (4) any written communications between the license

1 holder or registrant, as applicable, and the commissioner or the
2 commissioner's representative relating to or referencing an
3 examination conducted under Subtitle B or C, Title 4, or Chapter
4 394.

5 (b) The commissioner or the commissioner's representative
6 may disclose the confidential information or material described by
7 Subsection (a):

8 (1) to a department, agency, or instrumentality of
9 this state or the United States if the commissioner considers
10 disclosure to be necessary or proper to the enforcement of the laws
11 of this state or the United States and in the best interest of the
12 public;

13 (2) if the license holder or registrant consents to
14 the release of the information or has published the information
15 contained in the release; or

16 (3) if the commissioner determines that release of the
17 information is required for an administrative hearing.

18 SECTION 4. Subsection (a-4), Section 32.06, Tax Code, is
19 amended to read as follows:

20 (a-4) The Finance Commission of Texas shall:

21 (1) prescribe the form and content of an appropriate
22 disclosure statement to be provided to a property owner before the
23 execution of a tax lien transfer; ~~and~~

24 (2) adopt rules relating to the reasonableness of
25 closing costs, fees, and other charges permitted under this
26 section; and

27 (3) by rule prescribe the form and content of the sworn

1 document under Subsection (a-1) and the certified statement under
2 Subsection (b).

3 SECTION 5. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1620 passed the Senate on April 23, 2009, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on June 1, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1620 passed the House, with amendment, on May 26, 2009, by the following vote: Yeas 140, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor