

By: Wentworth

S.B. No. 1620

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of property tax lenders.

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

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

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

5 (1) examine each place of business of each property
6 tax lender; and

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

12 (b) The property tax lender shall:

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

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

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

25 (d) Information obtained under this section is
26 confidential.

27 (e) A property tax lender's violation of Subsection (b) is a

1 ground for the suspension or revocation of the lender's license.

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

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

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

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

26 (1) the accountant has reviewed the property tax
27 lender's books, other records, and transactions during the

1 reporting year;

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

4 (3) the property tax lender meets the net assets
5 requirement of Section 351.153.

6 SECTION 3. Subsection (a-4), Section 32.06, Tax Code, is
7 amended to read as follows:

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

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

12 (2) adopt rules relating to the reasonableness of
13 closing costs, fees, and other charges permitted under this
14 section; and

15 (3) by rule prescribe the form and content of the sworn
16 document under Subsection (a-1) and the certified statement under
17 Subsection (b).

18 SECTION 4. This Act takes effect September 1, 2009.