

1-1 By: Wentworth S.B. No. 1620
1-2 (In the Senate - Filed March 10, 2009; March 17, 2009, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 8, 2009, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 8, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the regulation of property tax lenders.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 351.004, Finance Code, as added by
1-11 Chapter 1220 (H.B. 2138), Acts of the 80th Legislature, Regular
1-12 Session, 2007, is amended to read as follows:

1-13 Sec. 351.004. AFFILIATED BUSINESS ARRANGEMENTS. A property
1-14 tax lender may conduct business under this chapter in an office,
1-15 office suite, room, or place of business in which any other business
1-16 is conducted or in combination with any other business unless the
1-17 commissioner:

1-18 (1) determines after a hearing that the conduct of the
1-19 other business in that office, office suite, room, or place of
1-20 business has concealed an evasion of this chapter; and

1-21 (2) orders the lender in writing to desist from the
1-22 conduct of the other business in that office, office suite, room, or
1-23 place of business [~~This chapter may not be construed to prevent~~
1-24 ~~affiliated or controlled business arrangements or loan origination~~
1-25 ~~services by or between a property tax lender and other~~
1-26 ~~professionals].~~

1-27 SECTION 2. Subchapter A, Chapter 351, Finance Code, as
1-28 added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature,
1-29 Regular Session, 2007, is amended by adding Sections 351.008
1-30 through 351.011 to read as follows:

1-31 Sec. 351.008. EXAMINATION OF LENDERS; ACCESS TO RECORDS.
1-32 (a) The commissioner or the commissioner's representative shall,
1-33 at the times the commissioner or the representative considers
1-34 necessary:

1-35 (1) examine each place of business of each property
1-36 tax lender; and

1-37 (2) investigate the lender's transactions, including
1-38 loans, and records, including books, accounts, papers, and
1-39 correspondence, to the extent the transactions and records pertain
1-40 to the business regulated under this chapter and Sections 32.06 and
1-41 32.065, Tax Code.

1-42 (b) The property tax lender shall:

1-43 (1) give the commissioner or the commissioner's
1-44 representative free access to the lender's office, place of
1-45 business, files, safes, and vaults; and

1-46 (2) allow the commissioner or the representative to
1-47 make a copy of an item that may be investigated under Subsection
1-48 (a)(2).

1-49 (c) During an examination, the commissioner or the
1-50 commissioner's representative may administer oaths and examine any
1-51 person under oath on any subject pertinent to a matter that the
1-52 commissioner or the representative is authorized or required to
1-53 consider, investigate, or secure information about under this
1-54 chapter or Section 32.06 or 32.065, Tax Code.

1-55 (d) Information obtained under this section is
1-56 confidential.

1-57 (e) A property tax lender's violation of Subsection (b) is a
1-58 ground for the suspension or revocation of the lender's license.

1-59 Sec. 351.009. GENERAL INVESTIGATION. (a) To discover a
1-60 violation of this chapter or Section 32.06 or 32.065, Tax Code, or
1-61 to obtain information required under this chapter or Section 32.06
1-62 or 32.065, Tax Code, the commissioner or the commissioner's
1-63 representative may investigate the records, including books,
1-64 accounts, papers, and correspondence, of a person, including a

2-1 property tax lender, who the commissioner or the representative has
2-2 reasonable cause to believe is violating this chapter or Section
2-3 32.06 or 32.065, Tax Code, regardless of whether the person claims
2-4 to not be subject to this chapter or Section 32.06 or 32.065, Tax
2-5 Code.

2-6 (b) For the purposes of this section, a person who
2-7 advertises, solicits, or otherwise represents that the person is
2-8 willing to make a property tax loan is presumed to be engaged in the
2-9 business described by Section 351.051.

2-10 Sec. 351.010. REFUSAL TO ALLOW EXAMINATION OR INSPECTION.
2-11 A property tax lender who fails or refuses to permit an examination
2-12 or investigation authorized by this subchapter violates this
2-13 chapter. The failure or refusal is grounds for the suspension or
2-14 revocation of the lender's license.

2-15 Sec. 351.011. VERIFICATION OF NET ASSETS. If the
2-16 commissioner questions the amount of a property tax lender's net
2-17 assets, the commissioner may require certification by an
2-18 independent certified public accountant that:

2-19 (1) the accountant has reviewed the property tax
2-20 lender's books, other records, and transactions during the
2-21 reporting year;

2-22 (2) the books and other records are maintained using
2-23 generally accepted accounting principles; and

2-24 (3) the property tax lender meets the net assets
2-25 requirement of Section 351.153.

2-26 SECTION 3. Subsection (a-4), Section 32.06, Tax Code, is
2-27 amended to read as follows:

2-28 (a-4) The Finance Commission of Texas shall:

2-29 (1) prescribe the form and content of an appropriate
2-30 disclosure statement to be provided to a property owner before the
2-31 execution of a tax lien transfer; ~~and~~

2-32 (2) adopt rules relating to the reasonableness of
2-33 closing costs, fees, and other charges permitted under this
2-34 section; and

2-35 (3) by rule prescribe the form and content of the sworn
2-36 document under Subsection (a-1) and the certified statement under
2-37 Subsection (b).

2-38 SECTION 4. This Act takes effect September 1, 2009.

2-39 * * * * *