

SENATE AMENDMENTS

2nd Printing

By: Paxton

H.B. No. 2908

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. Section 32.06(a-4), Tax Code, is amended to read
7 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.

ADOPTED

MAY 27 2009

Atty. Gen. Paul
Secretary of the Senate

By: PAXTON/WENTWORTH

H.B. No. 2908

Substitute the following for H.B. No. 2908:

By: Wentworth

C.S. H.B. No. 2908

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of property tax lenders and the
3 confidentiality of certain information obtained or compiled by the
4 consumer credit commissioner on examination of property tax lenders
5 and certain other license holders or registrants.

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

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

9 Sec. 14.2015. CONFIDENTIALITY OF CERTAIN INFORMATION. (a)
10 Except as provided by Subsection (b), information or material
11 obtained or compiled by the commissioner in relation to an
12 examination by the commissioner or the commissioner's
13 representative of a license holder or registrant under Subtitle B
14 or C, Title 4, or Chapter 394 is confidential and may not be
15 disclosed by the commissioner or an officer or employee of the
16 Office of Consumer Credit Commissioner, including:

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

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

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

1 and

2 (4) any written communications between the license
3 holder or registrant, as applicable, and the commissioner or the
4 commissioner's representative relating to or referencing an
5 examination conducted under Subtitle B or C, Title 4, or Chapter
6 394.

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

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

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

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

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

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

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

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

10 SECTION 3. Subchapter A, Chapter 351, Finance Code, as
11 added by Chapter 1220 (H.B. 2138), Acts of the 80th Legislature,
12 Regular Session, 2007, is amended by adding Sections 351.008
13 through 351.011 to read as follows:

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

15 (a) The commissioner or the commissioner's representative shall,
16 at the times the commissioner or the representative considers
17 necessary:

18 (1) examine each place of business of each property
19 tax lender; and

20 (2) investigate the lender's transactions, including
21 loans, and records, including books, accounts, papers, and
22 correspondence, to the extent the transactions and records pertain
23 to the business regulated under this chapter and Sections 32.06 and
24 32.065, Tax Code.

25 (b) The property tax lender shall:

26 (1) give the commissioner or the commissioner's
27 representative free access to the lender's office, place of

1 business, files, safes, and vaults; and

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

5 (c) During an examination, the commissioner or the
6 commissioner's representative may administer oaths and examine any
7 person under oath on any subject pertinent to a matter that the
8 commissioner or the representative is authorized or required to
9 consider, investigate, or secure information about under this
10 chapter or Section 32.06 or 32.065, Tax Code.

11 (d) Information obtained under this section is
12 confidential.

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

15 Sec. 351.009. GENERAL INVESTIGATION. (a) To discover a
16 violation of this chapter or Section 32.06 or 32.065, Tax Code, or
17 to obtain information required under this chapter or Section 32.06
18 or 32.065, Tax Code, the commissioner or the commissioner's
19 representative may investigate the records, including books,
20 accounts, papers, and correspondence, of a person, including a
21 property tax lender, who the commissioner or the representative has
22 reasonable cause to believe is violating this chapter or Section
23 32.06 or 32.065, Tax Code, regardless of whether the person claims
24 to not be subject to this chapter or Section 32.06 or 32.065, Tax
25 Code.

26 (b) For the purposes of this section, a person who
27 advertises, solicits, or otherwise represents that the person is

1 willing to make a property tax loan is presumed to be engaged in the
2 business described by Section 351.051.

3 Sec. 351.010. REFUSAL TO ALLOW EXAMINATION OR INSPECTION.

4 A property tax lender who fails or refuses to permit an examination
5 or investigation authorized by this subchapter violates this
6 chapter. The failure or refusal is grounds for the suspension or
7 revocation of the lender's license.

8 Sec. 351.011. VERIFICATION OF NET ASSETS. If the

9 commissioner questions the amount of a property tax lender's net
10 assets, the commissioner may require certification by an
11 independent certified public accountant that:

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

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

17 (3) the property tax lender meets the net assets
18 requirement of Section 351.153.

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

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

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

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

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

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2908 by Paxton (Relating to the regulation of property tax lenders and the confidentiality of certain information obtained or compiled by the consumer credit commissioner on examination of property tax lenders and certain other license holders or registrants.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 351 of the Finance Code so that after a hearing, the commissioner may determine an affiliated business arrangement not suitable. Also, the bill would add sections relating to the commissioner's examination of and access to records of property tax lenders.

The bill would amend Chapter 14 of the Finance Code so that certain information or material obtained by the Office of Consumer Credit Commissioner (OCCC) would be kept confidential.

Based on the analysis of the OCCC, the Department of Banking, and the Department of Savings and Mortgage Lending, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner

LBB Staff: JOB, SZ, MN, ACa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Tommy Williams, Chair, Senate Committee on Administration

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2908 by Paxton (relating to the regulation of property tax lenders and the confidentiality of certain information obtained or compiled by the consumer credit commissioner on examination of property tax lenders and certain other license holders or registrants.),
Committee Report 2nd House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 351 of the Finance Code so that after a hearing, the commissioner may determine an affiliated business arrangement not suitable. Also, the bill would add sections relating to the commissioner's examination of and access to records of property tax lenders.

The bill would amend Chapter 14 of the Finance Code so that certain information or material obtained by the Office of Consumer Credit Commissioner (OCCC) would be kept confidential.

Based on the analysis of the OCCC, the Department of Banking, and the Department of Savings and Mortgage Lending, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner

LBB Staff: JOB, MN, ACa

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable Tommy Williams, Chair, Senate Committee on Administration

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2908 by Paxton (Relating to the regulation of property tax lenders.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 351 of the Finance Code so that after a hearing, the commissioner may determine an affiliated business arrangement not suitable. Also, the bill would add sections relating to the commissioner's examination of and access to records of property tax lenders.

Based on the analysis of the Office of Consumer Credit, the Department of Banking, and the Department of Savings and Mortgage Lending, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner

LBB Staff: JOB, MN, ACa

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 6, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2908 by Paxton (Relating to the regulation of property tax lenders.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 351 of the Finance Code so that after a hearing, the commissioner may determine an affiliated business arrangement not suitable. Also, the bill would add sections relating to the commissioner's examination of and access to records of property tax lenders.

Based on the analysis of the Office of Consumer Credit, the Department of Banking, and the Department of Savings and Mortgage Lending, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner

LBB Staff: JOB, MN, ACa

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

TAX/FEE EQUITY NOTE

81ST LEGISLATIVE REGULAR SESSION

April 7, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2908 by Paxton (Relating to the regulation of property tax lenders.), **As Introduced**

Because the bill would not create or impact a state tax or fee, no comment from this office is required by the rules of the House as to the general effects of the proposal on the distribution of tax and fee burdens among individuals and businesses.

Source Agencies:

LBB Staff: JOB, MN

