

House Bill 2908
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

No equivalent provision.

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

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

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

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

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

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

(b) The commissioner or the commissioner's representative may disclose the confidential information

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or material described by Subsection (a):

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

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

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

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~~

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~~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:

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

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

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

(b) The property tax lender shall:

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

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

(c) During an examination, the commissioner or the

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commissioner's representative may administer oaths and examine any person under oath on any subject pertinent to a matter that the commissioner or the representative is authorized or required to consider, investigate, or secure information about under this chapter or Section 32.06 or 32.065, Tax Code.

(d) Information obtained under this section is confidential.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SECTION 5. Same as House version.

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