

BILL ANALYSIS

Senate Research Center
84R23570 CLG-F

C.S.S.B. 1203
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Business & Commerce
4/21/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The committee substitute to S.B. 1203 would allow nonprofit organizations that offer self-help homebuilding programs to originate low-interest loans for homeowners served by those programs, without having to endure expensive and unnecessary licensing requirements.

In 2008 Congress passed the Secure and Fair Enforcement for Mortgage Licensing Act ("SAFE Act"), which required all states to pass licensing laws for mortgage loan originators that at least meet certain national standards. The Act's intent was to enhance consumer protection after the 2008 national mortgage crisis. During the 2009 legislative session, Texas lawmakers passed a conforming Texas SAFE Act.

Under the Texas SAFE Act, one must generally register as a mortgage loan originator if one receives a residential loan application or offers or negotiates the terms of a loan. Licensure can be quite demanding, because it requires originators pass a written qualified test, complete pre-licensure education courses, take annual continuing education courses, submit fingerprints to a national registry, and obtain an independent credit report.

The Texas SAFE Act created narrow exemptions from licensure for nonprofit organizations that provide self-help housing programs and for their employees, but only if the borrowers in these programs obtain zero interest residential mortgage loans. There are a very limited number of lenders—generally the U.S. Department of Agriculture (USDA), the Texas Department of Housing and Community Affairs (TDHCA), and a handful of private lenders—that will make mortgage loans to the borrowers in these programs.

While generally, mortgage loans made to borrowers in these programs are made at low rates, very few are zero interest loans. As a result, the existing zero interest exemption criteria either impose burdensome licensing requirements on nonprofit entities engaged in self-help homebuilding or require that these nonprofits direct their clients to unaffiliated licensed mortgage loan originators who may not be as familiar with the self-help homebuilding programs. Nonprofit organizations that offer these programs would be able to serve their clients more efficiently if their employees could originate mortgage loans for borrowers in their programs.

C.S.S.B. 1203 would add a new exemption to licensure for certain nonprofit homebuilders offering loans at greater than zero percent interest. Specifically, the bill provides an exemption from licensure to a 501(c)(3) nonprofit that originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan.

C.S.S.B. 1203 amends current law relating to exemptions from the applicability of the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009 and other laws applicable to residential mortgage loan originators.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 156.202(a-1), Finance Code, as follows:

(a-1) Provides that certain entities are exempt from this chapter, including a nonprofit organization that has a designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan are exempt from this chapter. Makes nonsubstantive changes.

SECTION 2. Amends Section 157.0121(c), Finance Code, as follows:

(c) Provides that employees of certain entities, when acting for the benefit of the entity, are exempt from the licensing and other requirements of this chapter applicable to residential mortgage loan originators, including a nonprofit organization that has a designation as a Section 501(c)(3) organization by the Internal Revenue Service and originates residential mortgage loans for borrowers who, through a self-help program, have provided at least 200 labor hours or 65 percent of the labor to construct the dwelling securing the loan. Makes nonsubstantive changes.

SECTION 3. Amends Section 180.003(a), Finance Code, as follows:

(a) Deletes existing text providing that a nonprofit organization providing self-help housing that originates zero-interest residential mortgage loans for borrowers who have provided part of the labor to construct the dwelling securing the loan is among those persons exempted from this chapter. Makes nonsubstantive changes.

SECTION 4. Provides that the provisions of this Act or the applications of those provisions are severable as provided by Section 311.032(c) (relating to the severability of certain statutes), Government Code. Requires that if the director of the Consumer Financial Protection Bureau determines that any provision of Sections 1 through 3 of this Act fails to meet the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289) that provision of this Act be held invalid; however the remainder of this Act or the application of the provision to other persons or circumstances is not affected.

SECTION 5. Effective date: September 1, 2015.