

BILL ANALYSIS

C.S.H.B. 2656
By: Longoria
Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note the need to address under the Residential Mortgage Loan Company Licensing and Registration Act certain residential mortgage loans for residential real estate on which no dwelling is constructed. C.S.H.B. 2656 seeks to address this issue by providing for the regulation of companies dealing in such loans under the act.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2656 amends the Finance Code to include in the definition of "residential mortgage loan company" for purposes of the Residential Mortgage Loan Company Licensing and Registration Act a mortgage lot lender company, defined by the bill as a corporation, company, partnership, or sole proprietorship that engages in the business of residential mortgage loan origination on residential real estate located in Texas on which no dwelling is constructed to purchasers of the residential real estate for all or part of the purchase price of the residential real estate against which the mortgage is secured. The bill sets out the requirements for an applicant to be registered as a mortgage lot lender company and requires the application for registration to be in writing, under oath, and on the form prescribed by the savings and mortgage lending commissioner. The bill requires the commissioner to issue a registration to a person if the commissioner determines that the person has met such requirements. The bill establishes that the registration is valid for one year, expires on December 31 of each year, and must be renewed annually by meeting the same requirements for initial registration and paying a renewal fee in an amount capped at \$500. The bill requires a person to renew an expired registration in the manner determined by the commissioner. The bill subjects a registered mortgage lot lender company to provisions of the act relating to license revocation, suspension, and other actions against a license holder, and relating to hearings, judicial review, civil actions, and unlicensed activity, as if the company were licensed as a residential mortgage loan company.

C.S.H.B. 2656 clarifies that the exemption for an owner of residential real estate who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the property applies only to the purchase of the residential real estate.

C.S.H.B. 2656 requires the Finance Commission of Texas to adopt the rules necessary to implement the bill's provisions and requires the savings and mortgage lending commissioner to begin registering persons as mortgage lot lender companies.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2656 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 156.2012(b), Finance Code, is amended to read as follows:

No equivalent provision.

(b) To be eligible to register as a registered financial services company, a person must:

(1) be a depository institution exempt from this chapter under Section 156.202(a-1)(5)(A) [~~156.202(a-1)(4)(A)~~] and chartered and regulated by the Office of the Comptroller of the Currency, or be a subsidiary of the institution;

(2) provide a business plan satisfactory to the commissioner that sets forth the person's plan to:

(A) provide education to its sponsored residential mortgage loan originators;

(B) handle consumer complaints relating to its sponsored residential mortgage loan originators; and

(C) supervise the residential mortgage loan origination activities of its sponsored residential mortgage loan originators;

(3) pay a registration fee in an amount not to exceed \$500;

(4) designate an officer of the person to be responsible for the activities of its sponsored residential mortgage loan originators;

(5) submit a completed application through the Nationwide Mortgage Licensing System and Registry together with the applicable fee required by Subdivision (3) or Subsection (c);

(6) obtain preapproval from the commissioner that the person meets the eligibility requirements for registration as a financial services company; and

(7) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant.

No equivalent provision.

SECTION 1. Section 156.002, Finance Code, is amended by adding Subdivision (8-b) and amending Subdivisions (10-b) and

(13) to read as follows:

(8-b) "Mortgage lot lender company" means a corporation, company, partnership, or sole proprietorship that engages in the business of residential mortgage loan origination on residential real estate located in this state on which no dwelling is constructed to purchasers of the residential real estate for all or part of the purchase price of the residential real estate against which the mortgage is secured.

(10-b) "Qualifying individual" means an individual who is:

(A) except as provided by Section 156.2045(a)(3), licensed under Chapter 157 as a residential mortgage loan originator; and

(B) designated by a residential mortgage loan company as the company's representative.

(13) "Residential mortgage loan company" means a person, other than an individual, that engages in the business of residential mortgage loan origination on residential real estate located in this state. The term includes a credit union subsidiary organization, auxiliary mortgage loan activity company, mortgage company, independent contractor loan processor or underwriter company, mortgage lot lender company, and financial services company.

No equivalent provision.

SECTION 2. Section 156.201, Finance Code, is amended to read as follows:

Sec. 156.201. LICENSES REQUIRED. (a) A person may not act in the capacity of, engage in the business of, or advertise or hold that person out as engaging in or conducting the business of a residential mortgage loan company in this state unless the person holds an active residential mortgage loan company license, is registered under Section 156.2012, is registered under Section 156.2045, or is exempt under Section 156.202.

(c) Each residential mortgage loan company and the company's qualifying individual are [~~licensed under Chapter 157 is~~] responsible to the commissioner and members of the public for any act or conduct performed by the residential mortgage loan originator sponsored by or acting for the residential mortgage loan company in connection with:

(1) the origination of a residential mortgage loan; or

(2) a transaction that is related to the

SECTION 2. Section 156.202(a-1), Finance Code, is amended to read as follows:

(a-1) The following entities are exempt from this chapter:

(1) a nonprofit organization:

(A) 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; or

(B) that has 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;

(2) a mortgage banker registered under Chapter 157;

(3) any owner of residential real estate who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the residential real estate [~~property~~] for all or part of the purchase price of the residential real estate against which the mortgage is secured; [~~and~~]

(4) any owner of residential real estate who makes residential mortgage loans for the residential real estate on which no dwelling is constructed to purchasers of the residential real estate for all or part of the purchase price of the residential real estate against which the mortgage is secured, provided that the loans are originated through a licensed and sponsored residential mortgage loan originator; and

(5) an entity that is:

(A) a depository institution;

(B) a subsidiary of a depository institution that is:

(i) owned and controlled by the depository institution; and

(ii) regulated by a federal banking agency; or

(C) an institution regulated by the Farm Credit Administration.

No equivalent provision.

origination of a residential mortgage loan in which the qualifying individual knew or should have known of the transaction.

SECTION 3. Section 156.202(a-1), Finance Code, is amended to read as follows:

(a-1) The following entities are exempt from this chapter:

(1) a nonprofit organization:

(A) 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; or

(B) that has 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;

(2) a mortgage banker registered under Chapter 157;

(3) any owner of residential real estate who in any 12-consecutive-month period makes no more than five residential mortgage loans to purchasers of the residential real estate [~~property~~] for all or part of the purchase price of the residential real estate against which the mortgage is secured; and

(4) an entity that is:

(A) a depository institution;

(B) a subsidiary of a depository institution that is:

(i) owned and controlled by the depository institution; and

(ii) regulated by a federal banking agency; or

(C) an institution regulated by the Farm Credit Administration.

SECTION 4. Section 156.203, Finance Code, is amended by adding Subsection (a-3) to read as follows:

(a-3) An application for a mortgage lot lender company registration under Section

156.2045 must be:

- (1) in writing;
- (2) under oath; and
- (3) on the form prescribed by the commissioner.

No equivalent provision.

SECTION 5. Subchapter C, Chapter 156, Finance Code, is amended by adding Section 156.2045 to read as follows:

Sec. 156.2045. QUALIFICATIONS AND REQUIREMENTS FOR REGISTRATION: MORTGAGE LOT LENDER COMPANY.

(a) To be registered as a mortgage lot lender company, an applicant must:

(1) submit a completed application together with the payment of applicable fees through the Nationwide Mortgage Licensing System and Registry;

(2) designate control persons for the company through the Nationwide Mortgage Licensing System and Registry;

(3) designate an individual as the company's qualifying individual who is either:

(A) an owner, officer, or partner of the company; or

(B) a residential mortgage loan originator who is licensed under Chapter 157;

(4) properly sponsor one or more residential mortgage loan originators who are licensed under Chapter 157;

(5) not be in violation of this chapter, a rule adopted under this chapter, or any order previously issued by the commissioner to the applicant;

(6) have the company name or assumed name properly filed with either the secretary of state or the appropriate county clerk's office;

(7) maintain a physical office in this state; and

(8) provide any other information required by the commissioner.

(b) If the commissioner determines that a person has met the requirements of Subsection (a), the commissioner shall issue a registration to the person. The registration is valid for one year, expires on December 31 of each year, and must be renewed annually by meeting the requirements under Subsection (a) and paying a renewal fee in an amount not to exceed \$500. A person must renew an expired registration in the manner determined by the commissioner.

(c) A registered mortgage lot lender company is subject to Subchapters D and E

as if the company were licensed as a residential mortgage loan company.

No equivalent provision.

SECTION 6. As soon as practicable after the effective date of this Act, the Finance Commission of Texas shall adopt the rules necessary to implement the changes in law made by this Act, and the savings and mortgage lending commissioner shall begin registering persons as mortgage lot lender companies as required by Section 156.2045, Finance Code, as added by this Act.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 7. Same as introduced version.