

By: Longoria

H.B. No. 2656

Substitute the following for H.B. No. 2656:

By: Stephenson

C.S.H.B. No. 2656

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the regulation of residential mortgage loan companies,
3 including the registration of mortgage lot lender companies;
4 authorizing a fee.

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

6 SECTION 1. Section 156.002, Finance Code, is amended by
7 adding Subdivision (8-b) and amending Subdivisions (10-b) and (13)
8 to read as follows:

9 (8-b) "Mortgage lot lender company" means a
10 corporation, company, partnership, or sole proprietorship that
11 engages in the business of residential mortgage loan origination on
12 residential real estate located in this state on which no dwelling
13 is constructed to purchasers of the residential real estate for all
14 or part of the purchase price of the residential real estate against
15 which the mortgage is secured.

16 (10-b) "Qualifying individual" means an individual
17 who is:

18 (A) except as provided by Section
19 156.2045(a)(3), licensed under Chapter 157 as a residential
20 mortgage loan originator; and

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

23 (13) "Residential mortgage loan company" means a
24 person, other than an individual, that engages in the business of

1 residential mortgage loan origination on residential real estate
2 located in this state. The term includes a credit union subsidiary
3 organization, auxiliary mortgage loan activity company, mortgage
4 company, independent contractor loan processor or underwriter
5 company, mortgage lot lender company, and financial services
6 company.

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

9 Sec. 156.201. LICENSES REQUIRED. (a) A person may not act
10 in the capacity of, engage in the business of, or advertise or hold
11 that person out as engaging in or conducting the business of a
12 residential mortgage loan company in this state unless the person
13 holds an active residential mortgage loan company license, is
14 registered under Section 156.2012, is registered under Section
15 156.2045, or is exempt under Section 156.202.

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

- 22 (1) the origination of a residential mortgage loan; or
23 (2) a transaction that is related to the origination
24 of a residential mortgage loan in which the qualifying individual
25 knew or should have known of the transaction.

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

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

2 (1) a nonprofit organization:

3 (A) providing self-help housing that originates
4 zero interest residential mortgage loans for borrowers who have
5 provided part of the labor to construct the dwelling securing the
6 loan; or

7 (B) that has designation as a Section 501(c)(3)
8 organization by the Internal Revenue Service and originates
9 residential mortgage loans for borrowers who, through a self-help
10 program, have provided at least 200 labor hours or 65 percent of the
11 labor to construct the dwelling securing the loan;

12 (2) a mortgage banker registered under Chapter 157;

13 (3) any owner of residential real estate who in any
14 12-consecutive-month period makes no more than five residential
15 mortgage loans to purchasers of the residential real estate
16 [~~property~~] for all or part of the purchase price of the residential
17 real estate against which the mortgage is secured; and

18 (4) an entity that is:

19 (A) a depository institution;

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

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

24 (ii) regulated by a federal banking agency;

25 or

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

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

3 (a-3) An application for a mortgage lot lender company
4 registration under Section 156.2045 must be:

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

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

10 Sec. 156.2045. QUALIFICATIONS AND REQUIREMENTS FOR
11 REGISTRATION: MORTGAGE LOT LENDER COMPANY. (a) To be registered as
12 a mortgage lot lender company, an applicant must:

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

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

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

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

21 or

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

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

26 (5) not be in violation of this chapter, a rule adopted
27 under this chapter, or any order previously issued by the

1 commissioner to the applicant;

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

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

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

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

15 (c) A registered mortgage lot lender company is subject to
16 Subchapters D and E as if the company were licensed as a residential
17 mortgage loan company.

18 SECTION 6. As soon as practicable after the effective date
19 of this Act, the Finance Commission of Texas shall adopt the rules
20 necessary to implement the changes in law made by this Act, and the
21 savings and mortgage lending commissioner shall begin registering
22 persons as mortgage lot lender companies as required by Section
23 156.2045, Finance Code, as added by this Act.

24 SECTION 7. This Act takes effect September 1, 2017.