By:  Creighton S.B. No. 2330

(In the Senate - Filed March 8, 2019; March 21, 2019, read first time and referred to Committee on Business & Commerce; April 9, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 9, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

Zaffirini            X

COMMITTEE SUBSTITUTE FOR S.B. No. 2330 By:  Creighton

A BILL TO BE ENTITLED

AN ACT

relating to the temporary authority of certain individuals to engage in business as a residential mortgage loan originator.

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

SECTION 1.  Section 157.012(a), Finance Code, is amended to read as follows:

(a)  An individual may not act or attempt to act in the capacity of a residential mortgage loan originator unless the individual is exempt under Section 157.0121 or 180.003(b), is acting under the temporary authority described under Section 180.0511, or:

(1)  is licensed under this chapter, sponsored by an appropriate entity, and enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(2)  complies with other applicable requirements of Chapter 180 and rules adopted by the finance commission under that chapter.

SECTION 2.  Section 180.051(a), Finance Code, is amended to read as follows:

(a)  Unless exempted by Section 180.003 or acting under the temporary authority described under Section 180.0511, an individual may not engage in business as a residential mortgage loan originator with respect to a dwelling located in this state unless the individual:

(1)  is licensed to engage in that business under Chapter 156, 157, 342, 347, 348, or 351; and

(2)  complies with the requirements of this chapter.

SECTION 3.  Subchapter B, Chapter 180, Finance Code, is amended by adding Section 180.0511 to read as follows:

Sec. 180.0511.  TEMPORARY AUTHORITY TO ORIGINATE LOANS. (a)  A registered mortgage loan originator who does not hold a license issued under a chapter listed in Section 180.051(a)(1) is considered to have temporary authority to act as a residential mortgage loan originator for a period not to exceed 120 days as provided by Subsection (d) if the individual:

(1)  becomes employed by an entity that is licensed or registered by this state to engage in the business of residential mortgage loan origination in this state;

(2)  has not had:

(A)  an application for a residential mortgage loan originator license or other loan originator license required by another jurisdiction to engage in business as a residential mortgage loan originator denied; or

(B)  a residential mortgage loan originator license or other loan originator license required by another jurisdiction to engage in business as a residential mortgage loan originator revoked or suspended in any governmental jurisdiction;

(3)  has not been subject to or served with a cease and desist order:

(A)  in any governmental jurisdiction; or

(B)  under 12 U.S.C. Section 5113(c);

(4)  has not been convicted of a misdemeanor or felony that would preclude licensure to engage in business as a residential mortgage loan originator in this state under the chapters listed in Section 180.051(a)(1);

(5)  has submitted to the appropriate regulatory official the application form prescribed by the regulatory official under Section 180.053 and the information required under Section 180.054; and

(6)  was registered in the Nationwide Mortgage Licensing System and Registry as a loan originator during the one-year period preceding the date on which the individual submitted to the appropriate regulatory official the application form and information required by Subdivision (5).

(b)  An individual licensed by another state or governmental jurisdiction to engage in mortgage loan origination in that other state or governmental jurisdiction is considered to have temporary authority to act as a residential mortgage loan originator in this state for a period not to exceed 120 days as provided by Subsection (d) if the individual:

(1)  is employed by an entity that is licensed or registered by this state to engage in the business of residential mortgage loan origination in this state;

(2)  meets the eligibility requirements provided by Subsections (a)(2), (3), (4), and (5); and

(3)  held the license issued by another state or governmental jurisdiction to engage in mortgage loan origination during the 30-day period preceding the date on which the individual submitted to the appropriate regulatory official the application form required under Section 180.053 and the information required under Section 180.054.

(c)  A residential mortgage loan originator licensed by a regulatory official to engage in business as a mortgage loan originator in this state under a chapter listed in Section 180.051(a)(1) is considered to have temporary authority to act as a residential mortgage loan originator under a different chapter listed in Section 180.051(a)(1) for a period not to exceed 120 days as provided by Subsection (d) if the individual:

(1)  is employed by an entity that is licensed or registered by this state to engage in the business of residential mortgage loan origination in this state;

(2)  meets the eligibility requirements provided by Subsections (a)(2), (3), (4), and (5); and

(3)  held the license issued by the regulatory official to engage in business as a residential mortgage loan originator during the 30-day period preceding the date on which the individual submitted to the appropriate regulatory official the application form required under Section 180.053 and the information required under Section 180.054.

(d)  The 120-day period of temporary authority described under this section begins on the date on which the individual submits to the appropriate regulatory official the application form required under Section 180.053 and the information required under Section 180.054 and ends on the earliest of:

(1)  the date on which the individual withdraws the application;

(2)  the date on which the regulatory official denies or issues a notice of intent to deny the application;

(3)  the date on which the regulatory official issues the individual a license; or

(4)  the 120th day after the date on which the individual submitted the application, if the application is listed on the Nationwide Mortgage Licensing System and Registry as incomplete.

(e)  A person employing an individual who is considered to have temporary authority to act as a residential mortgage loan originator in this state under this section is subject to the requirements of applicable federal and state laws and to applicable rules and regulations to the same extent as if that individual was a residential mortgage loan originator licensed by this state.

(f)  An individual who is considered to have temporary authority to act as a residential mortgage loan originator in this state under this section and who engages in residential mortgage loan origination activities is subject to the requirements of applicable federal and state laws and to applicable rules and regulations to the same extent as if that individual was a residential mortgage loan originator licensed by this state.

SECTION 4.  Section 342.0515(b), Finance Code, is amended to read as follows:

(b)  Unless exempt under Section 180.003, or acting under the temporary authority described under Section 180.0511, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a loan subject to this chapter must:

(1)  be individually licensed to engage in that activity under this chapter;

(2)  be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3)  comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

SECTION 5.  Section 347.4515(b), Finance Code, is amended to read as follows:

(b)  Unless exempt under Section 180.003, or acting under the temporary authority described under Section 180.0511, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of an extension of credit subject to this chapter must:

(1)  be individually licensed to engage in that activity under this chapter;

(2)  be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3)  comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

SECTION 6.  Section 348.5015(b), Finance Code, is amended to read as follows:

(b)  Unless exempt under Section 180.003, or acting under the temporary authority described under Section 180.0511, an individual who acts as a residential mortgage loan originator in the sale of a motor vehicle to be used as a principal dwelling must:

(1)  be licensed to engage in that activity under this chapter;

(2)  be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3)  comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

SECTION 7.  Section 351.0515(b), Finance Code, is amended to read as follows:

(b)  Unless exempt under Section 180.003, or acting under the temporary authority described under Section 180.0511, an individual who acts as a residential mortgage loan originator in the making, transacting, or negotiating of a property tax loan for a principal dwelling must:

(1)  be individually licensed to engage in that activity  under this chapter;

(2)  be enrolled with the Nationwide Mortgage Licensing System and Registry as required by Section 180.052; and

(3)  comply with other applicable requirements of Chapter 180 and rules adopted under that chapter.

SECTION 8.  Section 180.0511, Finance Code, as added by this Act, applies only to an application for a residential mortgage loan originator license submitted to the appropriate regulatory official, as defined by Section 180.002, Finance Code, on or after the effective date of this Act. An application for a residential mortgage loan originator license submitted before that date is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 9.  This Act takes effect November 24, 2019.

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