

By: Guillen

H.B. No. 3140

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of residential mortgage loan companies,
3 including requiring the registration of mortgage lot lender
4 companies; imposing 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
19 156.2013(b)(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 or 156.2013, or is exempt under
15 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 156.2012(a), Finance Code, is amended to
27 read as follows:

1 (a) A financial services company may perform the services of
2 a residential mortgage loan company if the company is registered
3 under this section [~~chapter~~].

4 SECTION 4. Subchapter C, Chapter 156, Finance Code, is
5 amended by adding Section 156.2013 to read as follows:

6 Sec. 156.2013. REGISTERED MORTGAGE LOT LENDER COMPANY. (a)
7 A mortgage lot lender company may perform the services of a
8 residential mortgage loan company if the company is registered
9 under this section.

10 (b) To be registered as a mortgage lot lender company, a
11 person must:

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

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

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

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

20 or

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

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

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

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

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

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

7 (c) If the commissioner determines that a person has met the
8 requirements of Subsection (b) and pays a registration fee in an
9 amount not to exceed \$500, 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 (b) 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 (d) 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 5. Section [156.202\(a-1\)](#), Finance Code, is amended
19 to read as follows:

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

21 (1) a nonprofit organization:

22 (A) providing self-help housing that originates
23 zero interest residential mortgage loans for borrowers who have
24 provided part of the labor to construct the dwelling securing the
25 loan; or

26 (B) that has designation as a Section 501(c)(3)
27 organization by the Internal Revenue Service and originates

1 residential mortgage loans for borrowers who, through a self-help
2 program, have provided at least 200 labor hours or 65 percent of the
3 labor to construct the dwelling securing the loan;

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

5 (3) any owner of residential real estate who in any
6 12-consecutive-month period makes no more than five residential
7 mortgage loans to purchasers of the residential real estate
8 [~~property~~] for all or part of the purchase price of the residential
9 real estate against which the mortgage is secured; and

10 (4) an entity that is:

11 (A) a depository institution;

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

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

16 (ii) regulated by a federal banking agency;

17 or

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

20 SECTION 6. Section 156.203, Finance Code, is amended by
21 adding Subsection (a-3) to read as follows:

22 (a-3) An application for a mortgage lot lender company
23 registration under Section 156.2013 must be:

24 (1) in writing;

25 (2) under oath; and

26 (3) on the form prescribed by the commissioner.

27 SECTION 7. As soon as practicable after the effective date

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1 of this Act, the Finance Commission of Texas shall adopt the rules
2 necessary to implement the changes in law made by this Act, and the
3 savings and mortgage lending commissioner shall begin registering
4 persons as mortgage lot lender companies as required by Section
5 156.2013, Finance Code, as added by this Act.

6 SECTION 8. This Act takes effect September 1, 2019.