

1-1 By: Zaffirini S.B. No. 42
 1-2 (In the Senate - Filed November 12, 2018; February 1, 2019,
 1-3 read first time and referred to Committee on Business & Commerce;
 1-4 April 8, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 42 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to residential mortgage loans, including the financing of
 1-22 residential real estate purchases by means of a wrap mortgage loan;
 1-23 providing licensing and registration requirements; authorizing an
 1-24 administrative penalty.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 156.202, Finance Code, is amended by
 1-27 amending Subsection (a-1) and adding Subsection (b) to read as
 1-28 follows:

1-29 (a-1) The following entities are exempt from this chapter:

1-30 (1) a nonprofit organization:

1-31 (A) providing self-help housing that originates
 1-32 zero interest residential mortgage loans for borrowers who have
 1-33 provided part of the labor to construct the dwelling securing the
 1-34 loan; or

1-35 (B) that has designation as a Section 501(c)(3)
 1-36 organization by the Internal Revenue Service and originates
 1-37 residential mortgage loans for borrowers who, through a self-help
 1-38 program, have provided at least 200 labor hours or 65 percent of the
 1-39 labor to construct the dwelling securing the loan;

1-40 (2) a mortgage banker registered under Chapter 157;

1-41 (3) subject to Subsection (b), any owner of
 1-42 residential real estate who in any 12-consecutive-month period
 1-43 makes no more than five residential mortgage loans to purchasers of
 1-44 the property for all or part of the purchase price of the
 1-45 residential real estate against which the mortgage is secured; and

1-46 (4) an entity that is:

1-47 (A) a depository institution;

1-48 (B) a subsidiary of a depository institution that
 1-49 is:

1-50 (i) owned and controlled by the depository
 1-51 institution; and

1-52 (ii) regulated by a federal banking agency;

1-53 or

1-54 (C) an institution regulated by the Farm Credit
 1-55 Administration.

1-56 (b) In determining eligibility for an exemption under
 1-57 Subsection (a-1)(3), two or more owners of residential real estate
 1-58 are considered a single owner for the purpose of computing the
 1-59 number of mortgage loans made within the period specified by that
 1-60 subdivision if any of the owners are affiliates, as defined by

2-1 Section 1.002(1), Business Organizations Code, or if any of the
 2-2 owners have substantially common ownership, as determined by the
 2-3 commissioner.

2-4 SECTION 2. Section 157.0121, Finance Code, is amended by
 2-5 amending Subsection (c) and adding Subsection (f) to read as
 2-6 follows:

2-7 (c) Employees of the following entities, when acting for the
 2-8 benefit of those entities, are exempt from the licensing and other
 2-9 requirements of this chapter applicable to residential mortgage
 2-10 loan originators:

2-11 (1) a nonprofit organization:

2-12 (A) providing self-help housing that originates
 2-13 zero interest residential mortgage loans for borrowers who have
 2-14 provided part of the labor to construct the dwelling securing the
 2-15 loan; or

2-16 (B) that has designation as a Section 501(c)(3)
 2-17 organization by the Internal Revenue Service and originates
 2-18 residential mortgage loans for borrowers who, through a self-help
 2-19 program, have provided at least 200 labor hours or 65 percent of the
 2-20 labor to construct the dwelling securing the loan;

2-21 (2) subject to Subsection (f), any owner of
 2-22 residential real estate who in any 12-consecutive-month period
 2-23 makes no more than five residential mortgage loans to purchasers of
 2-24 the property for all or part of the purchase price of the
 2-25 residential real estate against which the mortgage is secured; and

2-26 (3) an entity that is:

2-27 (A) a depository institution;

2-28 (B) a subsidiary of a depository institution that
 2-29 is:

2-30 (i) owned and controlled by the depository
 2-31 institution; and

2-32 (ii) regulated by a federal banking agency;

2-33 or

2-34 (C) an institution regulated by the Farm Credit
 2-35 Administration.

2-36 (f) In determining eligibility for an exemption under
 2-37 Subsection (c)(2), two or more owners of residential real estate
 2-38 are considered a single owner for the purpose of computing the
 2-39 number of mortgage loans made within the period specified by that
 2-40 subdivision if any of the owners are affiliates, as defined by
 2-41 Section 1.002(1), Business Organizations Code, or if any of the
 2-42 owners have substantially common ownership, as determined by the
 2-43 commissioner.

2-44 SECTION 3. Subtitle E, Title 3, Finance Code, is amended by
 2-45 adding Chapter 159 to read as follows:

2-46 CHAPTER 159. WRAP MORTGAGE LOAN FINANCING

2-47 SUBCHAPTER A. GENERAL PROVISIONS

2-48 Sec. 159.001. DEFINITIONS. In this chapter:

2-49 (1) "Commissioner" means the savings and mortgage
 2-50 lending commissioner.

2-51 (2) "Finance commission" means the Finance Commission
 2-52 of Texas.

2-53 (3) "Residential mortgage loan" has the meaning
 2-54 assigned by Section 180.002.

2-55 (4) "Residential real estate" has the meaning assigned
 2-56 by Section 180.002.

2-57 (5) "Wrap borrower" means a person obligated to pay a
 2-58 wrap mortgage loan.

2-59 (6) "Wrap lender" means:

2-60 (A) a person who makes a wrap mortgage loan; or

2-61 (B) an owner of residential real estate who
 2-62 contracts with another person to make a wrap mortgage loan to a wrap
 2-63 borrower on the owner's behalf to finance the purchase of the
 2-64 owner's residential real estate.

2-65 (7) "Wrap mortgage loan" means a residential mortgage
 2-66 loan:

2-67 (A) made to finance the purchase of residential
 2-68 real estate that will continue to be subject to an unreleased lien
 2-69 that:

3-1 (i) attached to the residential real estate
 3-2 before the loan was made; and
 3-3 (ii) secures a debt incurred by a person
 3-4 other than the wrap borrower that was not paid off at the time the
 3-5 loan was made; and
 3-6 (B) obligating the wrap borrower to the wrap
 3-7 lender for payment of a debt the principal amount of which includes:
 3-8 (i) the outstanding balance of the debt
 3-9 described by Paragraph (A)(ii); and
 3-10 (ii) any remaining amount of the purchase
 3-11 price financed by the wrap lender.

3-12 Sec. 159.002. INAPPLICABILITY OF CHAPTER. (a) In this
 3-13 section, "unimproved residential real estate" means residential
 3-14 real estate on which a dwelling has not been constructed.

3-15 (b) Notwithstanding any other provision of this chapter,
 3-16 this chapter does not apply to a wrap mortgage loan:

3-17 (1) made by or on behalf of an owner of unimproved
 3-18 residential real estate to a purchaser of that residential real
 3-19 estate if:

3-20 (A) the residential real estate purchased will
 3-21 not continue to be subject to any unreleased lien described by
 3-22 Section 159.001(7)(A) that secures a debt that is subject to a
 3-23 due-on-sale clause in connection with which the lienholder may
 3-24 foreclose the lien; or

3-25 (B) the residential real estate purchased will
 3-26 continue to be subject to an unreleased lien described by Paragraph
 3-27 (A) and the holder of that unreleased lien has consented to the sale
 3-28 of the residential real estate; or

3-29 (2) for a sale of residential real estate that is the
 3-30 wrap lender's homestead.

3-31 Sec. 159.003. EXEMPTIONS. (a) The following persons are
 3-32 exempt from this chapter:

3-33 (1) a federally insured bank, savings bank, savings
 3-34 and loan association, Farm Credit System Institution, or credit
 3-35 union;

3-36 (2) a subsidiary of a federally insured bank, savings
 3-37 bank, savings and loan association, Farm Credit System Institution,
 3-38 or credit union;

3-39 (3) the state or a governmental agency, political
 3-40 subdivision, or other instrumentality of the state, or an employee
 3-41 of the state or a governmental agency, political subdivision, or
 3-42 instrumentality of the state who is acting within the scope of the
 3-43 person's employment; or

3-44 (4) subject to Subsection (b), an owner of residential
 3-45 real estate if the owner does not in any 12-consecutive-month
 3-46 period make, or contract with another person to make, more than five
 3-47 wrap mortgage loans to purchasers of the property for all or part of
 3-48 the purchase price of the residential real estate against which the
 3-49 mortgage is secured.

3-50 (b) In determining eligibility for an exemption under
 3-51 Subsection (a)(4), two or more owners of residential real estate
 3-52 are considered a single owner for the purpose of computing the
 3-53 number of wrap mortgage loans made within the period specified by
 3-54 that subdivision if any of the owners are affiliates, as defined by
 3-55 Section 1.002(1), Business Organizations Code, or if any of the
 3-56 owners have substantially common ownership, as determined by the
 3-57 commissioner.

3-58 SUBCHAPTER B. LICENSING OR REGISTRATION

3-59 Sec. 159.051. LICENSE OR REGISTRATION REQUIRED. A person
 3-60 may not originate or make a wrap mortgage loan unless the person is
 3-61 licensed or registered to originate or make residential mortgage
 3-62 loans under Chapter 156, 157, or 342 or is exempt from licensing or
 3-63 registration as provided under an applicable provision of those
 3-64 chapters.

3-65 SUBCHAPTER C. TRANSACTION REQUIREMENTS; REMEDIES

3-66 Sec. 159.101. DISCLOSURE STATEMENT; OPTION TO RESCIND.

3-67 (a) A wrap lender must, on or before the seventh day before the
 3-68 wrap mortgage loan agreement is entered into, provide to the wrap
 3-69 borrower a separate written disclosure statement in at least

4-1 12-point type that:

4-2 (1) contains the information required for a written
4-3 disclosure statement under Section 5.016, Property Code; and

4-4 (2) includes a statement in a form substantially
4-5 similar to the following:

4-6 NOTICE REGARDING PROPERTY INSURANCE: ANY INSURANCE MAINTAINED BY A
4-7 SELLER, LENDER, OR OTHER PERSON WHO IS NOT THE BUYER OF THIS
4-8 PROPERTY MAY NOT PROVIDE COVERAGE TO THE BUYER IF THE BUYER SUFFERS
4-9 A LOSS OR INCURS LIABILITY IN CONNECTION WITH THE PROPERTY. TO
4-10 ENSURE THE BUYER'S INTERESTS ARE PROTECTED, THE BUYER SHOULD
4-11 PURCHASE THE BUYER'S OWN PROPERTY INSURANCE. BEFORE PURCHASING
4-12 THIS PROPERTY, YOU MAY WISH TO CONSULT AN INSURANCE AGENT REGARDING
4-13 THE INSURANCE COVERAGE AVAILABLE TO YOU AS A BUYER OF THE PROPERTY.

4-14 (b) The disclosure statement required under Subsection (a)
4-15 must be dated and signed by the wrap borrower when the wrap borrower
4-16 receives the statement.

4-17 (c) The finance commission by rule shall adopt a model
4-18 disclosure statement that satisfies the requirements of Subsection
4-19 (a).

4-20 (d) If the disclosure statement required under Subsection
4-21 (a) and any disclosure required by Section 159.102 are received by
4-22 the wrap borrower on or before the closing date of the wrap mortgage
4-23 loan, the wrap borrower may rescind the wrap mortgage loan
4-24 agreement and any related purchase agreement or other agreement
4-25 relating to the loan transaction not later than the seventh day
4-26 after the date of receipt of the disclosure statement, regardless
4-27 of whether the disclosure is timely made. On rescission under this
4-28 subsection, the wrap borrower is entitled to a return of any earnest
4-29 money, escrow amounts, down payment, or other fees or charges paid
4-30 in connection with the wrap mortgage loan, the related purchase
4-31 transaction, and any other related transaction.

4-32 Sec. 159.102. FOREIGN LANGUAGE REQUIREMENT. If the
4-33 negotiations that precede the execution of the wrap mortgage loan
4-34 agreement are conducted primarily in a language other than English,
4-35 the wrap lender shall provide a copy of a written disclosure
4-36 statement required under Section 159.101 of this code or Section
4-37 5.016, Property Code, in that language to the wrap borrower.

4-38 Sec. 159.103. FAILURE TO PROVIDE DISCLOSURE: TOLLING OF
4-39 LIMITATIONS. If a wrap lender fails to provide the disclosure
4-40 statement as required by Section 159.101 or fails to provide the
4-41 disclosure statement in the language required by Section 159.102,
4-42 the limitations period applicable to any cause of action of the wrap
4-43 borrower against the wrap lender arising out of the wrap lender's
4-44 violation of a law of this state in connection with the wrap
4-45 mortgage loan transaction is tolled until the 120th day after the
4-46 date the required disclosure statement is provided.

4-47 Sec. 159.104. FAILURE TO PROVIDE DISCLOSURE BEFORE CLOSING;
4-48 RIGHT OF RESCISSION. (a) Subject to Subsection (b), if a wrap
4-49 mortgage loan is closed without the wrap lender providing the
4-50 disclosure statement required by Section 159.101 or any disclosure
4-51 required by Section 159.102, the wrap borrower may rescind the wrap
4-52 mortgage loan agreement and the related purchase agreement at any
4-53 time by providing the wrap lender notice of rescission in writing.

4-54 (b) If the wrap borrower receives a required disclosure
4-55 statement under Section 159.101 or 159.102 after the date the wrap
4-56 mortgage loan is closed but before the wrap borrower provides
4-57 notice of rescission, the wrap borrower may rescind the wrap
4-58 mortgage loan agreement and the related purchase agreement in
4-59 writing on or before the 21st day after the date of receipt of the
4-60 disclosure statement.

4-61 (c) Not later than the 30th day after the date the wrap
4-62 borrower provides notice of rescission under this section, the wrap
4-63 lender shall return to the wrap borrower:

4-64 (1) all principal and interest payments made by the
4-65 wrap borrower on the wrap mortgage loan;

4-66 (2) any money or property given as earnest money, a
4-67 down payment, or otherwise in connection with the wrap mortgage
4-68 loan or related purchase transaction; and

4-69 (3) any escrow amounts for the wrap mortgage loan or

5-1 related purchase transaction.

5-2 (d) On the date on which all of the returned money or
 5-3 property described by Subsection (c) is received by the wrap
 5-4 borrower, the wrap borrower shall convey to the wrap lender or the
 5-5 wrap lender's designee the residential real estate described by
 5-6 Section 159.001(7)(A). The wrap borrower shall surrender
 5-7 possession of the residential real estate not later than the 30th
 5-8 day after the date of the wrap borrower's receipt of the money or
 5-9 property returned as described by this subsection.

5-10 (e) Notwithstanding Subsection (a) or (b), the wrap lender
 5-11 may avoid rescission if not later than the 30th day after the date
 5-12 of receipt of notice of rescission under Subsection (a), the wrap
 5-13 lender:

5-14 (1) pays the outstanding balance due on any debt
 5-15 described by Section 159.001(7)(A)(ii);

5-16 (2) pays any due and unpaid taxes or other government
 5-17 assessment on the residential real estate described by Section
 5-18 159.001(7)(A);

5-19 (3) pays to the wrap borrower as damages for
 5-20 noncompliance the sum of \$1,000 and any reasonable attorney's fees
 5-21 incurred by the wrap borrower; and

5-22 (4) provides to the wrap borrower evidence of
 5-23 compliance with Subdivisions (1) and (2).

5-24 Sec. 159.105. ENFORCEABILITY OF WRAP LIEN. A lien securing
 5-25 a wrap mortgage loan is void unless the wrap mortgage loan and the
 5-26 conveyance of the residential real estate securing the loan are
 5-27 closed by an attorney or a title company.

5-28 Sec. 159.106. BORROWER'S RIGHT OF ACTION. (a) A wrap
 5-29 borrower may bring an action to:

5-30 (1) obtain declaratory or injunctive relief to enforce
 5-31 this subchapter;

5-32 (2) recover any actual damages suffered by the wrap
 5-33 borrower as a result of a violation of this subchapter; or

5-34 (3) obtain other remedies available under this
 5-35 subchapter or in an action under Section 17.50, Business & Commerce
 5-36 Code, as otherwise authorized under this subchapter.

5-37 (b) A wrap borrower who prevails in an action under this
 5-38 section may recover court costs and reasonable attorney's fees.

5-39 Sec. 159.107. WAIVER OR AVOIDANCE PROHIBITED. (a) Any
 5-40 purported waiver of a right of a wrap borrower under this subchapter
 5-41 or purported exemption of a person from liability for a violation of
 5-42 this subchapter is void.

5-43 (b) A person who is a party to a residential real estate
 5-44 transaction may not evade the application of this subchapter by any
 5-45 device, subterfuge, or pretense, and any attempt to do so is void
 5-46 and a deceptive trade practice under Subchapter E, Chapter 17,
 5-47 Business & Commerce Code, and is actionable under that subchapter.

5-48 Sec. 159.108. RULEMAKING AUTHORITY. The finance commission
 5-49 may adopt and enforce rules necessary for the intent of or to ensure
 5-50 compliance with this subchapter.

5-51 SUBCHAPTER D. DUTIES OWED TO WRAP BORROWER

5-52 Sec. 159.151. MONEY HELD IN TRUST. A person who collects or
 5-53 receives a payment from a wrap borrower under the terms of a wrap
 5-54 mortgage loan holds the money in trust for the benefit of the
 5-55 borrower.

5-56 Sec. 159.152. FIDUCIARY DUTY. A person who collects or
 5-57 receives a payment from a wrap borrower under the terms of or in
 5-58 connection with a wrap mortgage loan owes a fiduciary duty to the
 5-59 wrap borrower to use the payment to satisfy the obligations of the
 5-60 obligee under each debt described by Section 159.001(7)(A)(ii) and
 5-61 the payment of taxes and insurance for which the wrap lender has
 5-62 received any payments from the wrap borrower.

5-63 SUBCHAPTER E. WRAP BORROWER'S RIGHTS

5-64 Sec. 159.201. APPLICABILITY OF SUBCHAPTER. This subchapter
 5-65 applies only to a wrap mortgage loan for a purchase of residential
 5-66 real estate to be used as the wrap borrower's residence.

5-67 Sec. 159.202. WRAP BORROWER'S RIGHT TO DEDUCT. The wrap
 5-68 borrower, without taking judicial action, may deduct from any
 5-69 amount owed to the wrap lender under the terms of the wrap mortgage

6-1 loan:

6-2 (1) the amount of any payment made by the wrap borrower
 6-3 to an obligee of a debt described by Section 159.001(7)(A)(ii) to
 6-4 cure a default by the wrap lender caused by the lender's failure to
 6-5 make payments for which the lender is responsible under the terms of
 6-6 the wrap mortgage loan; or

6-7 (2) any other amount for which the wrap lender is
 6-8 liable to the wrap borrower under the terms of the wrap mortgage
 6-9 loan.

6-10 SUBCHAPTER F. ENFORCEMENT OF CERTAIN REGISTRATION REQUIREMENTS

6-11 Sec. 159.251. APPLICABILITY OF SUBCHAPTER. This subchapter
 6-12 applies only to a wrap lender who is required to register as a
 6-13 residential mortgage loan servicer under Chapter 158.

6-14 Sec. 159.252. INSPECTION; INVESTIGATION. (a) The
 6-15 commissioner may conduct an inspection of a wrap lender registered
 6-16 under Chapter 158 as the commissioner determines necessary to
 6-17 determine whether the wrap lender is complying with that chapter
 6-18 and applicable rules. The inspection may include an inspection of
 6-19 the books, records, documents, operations, and facilities of the
 6-20 wrap lender. The commissioner may share evidence of criminal
 6-21 activity gathered during an inspection or investigation with any
 6-22 state or federal law enforcement agency.

6-23 (b) For reasonable cause, the commissioner at any time may
 6-24 investigate a wrap lender registered under Chapter 158 to determine
 6-25 whether the lender is complying with that chapter and applicable
 6-26 rules.

6-27 (c) The commissioner may conduct an undercover or covert
 6-28 investigation only if the commissioner, after due consideration of
 6-29 the circumstances, determines that the investigation is necessary
 6-30 to prevent immediate harm and to carry out the purposes of Chapter
 6-31 158.

6-32 (d) The finance commission by rule shall provide guidelines
 6-33 to govern an inspection or investigation under this section,
 6-34 including rules to:

6-35 (1) determine the information and records of the wrap
 6-36 lender to which the commissioner may demand access during an
 6-37 inspection or investigation; and

6-38 (2) establish what constitutes reasonable cause for an
 6-39 investigation.

6-40 (e) Information obtained by the commissioner during an
 6-41 inspection or investigation under this section is confidential
 6-42 unless disclosure of the information is permitted or required by
 6-43 other law.

6-44 (f) The commissioner may share information gathered during
 6-45 an investigation under this section with a state or federal agency.
 6-46 The commissioner may share information gathered during an
 6-47 inspection with a state or federal agency only if the commissioner
 6-48 determines there is a valid reason for the sharing.

6-49 (g) The commissioner may require reimbursement of expenses
 6-50 for each examiner for an on-site examination or inspection of a
 6-51 registered wrap lender under this section if records are located
 6-52 out of state and are not made available for examination or
 6-53 inspection by the examiner in this state. The finance commission by
 6-54 rule shall set the maximum amount for the reimbursement of expenses
 6-55 authorized under this subsection.

6-56 Sec. 159.253. ISSUANCE AND ENFORCEMENT OF SUBPOENA.

6-57 (a) During an investigation conducted under this subchapter, the
 6-58 commissioner may issue a subpoena that is addressed to a peace
 6-59 officer of this state or other person authorized by law to serve
 6-60 citation or perfect service. The subpoena may require a person to
 6-61 give a deposition, produce documents, or both.

6-62 (b) If a person disobeys a subpoena or if a person appearing
 6-63 in a deposition in connection with the investigation refuses to
 6-64 testify, the commissioner may petition a district court in Travis
 6-65 County to issue an order requiring the person to obey the subpoena,
 6-66 testify, or produce documents relating to the matter. The court
 6-67 shall promptly set an application to enforce a subpoena issued
 6-68 under Subsection (a) for hearing and shall cause notice of the
 6-69 application and the hearing to be served on the person to whom the

7-1 subpoena is directed.

7-2 SUBCHAPTER G. ENFORCEMENT OF CHAPTER

7-3 Sec. 159.301. CEASE AND DESIST ORDER. (a) The

7-4 commissioner, if the commissioner has reasonable cause to believe

7-5 that a wrap lender or wrap mortgage loan originator to whom this

7-6 chapter applies has violated or is about to violate this chapter,

7-7 may issue without notice and hearing an order to cease and desist

7-8 from continuing a particular action or an order to take affirmative

7-9 action, or both, to enforce compliance with this chapter.

7-10 (b) An order issued under Subsection (a) must contain a

7-11 reasonably detailed statement of the facts on which the order is

7-12 made. If a person against whom the order is made requests a

7-13 hearing, the commissioner shall set and give notice of a hearing

7-14 before the commissioner or a hearings officer. The hearing shall be

7-15 governed by Chapter 2001, Government Code. Based on the findings of

7-16 fact, conclusions of law, and recommendations of the hearings

7-17 officer, the commissioner by order may find a violation has

7-18 occurred or not occurred.

7-19 (c) If a hearing is not requested under Subsection (b) on or

7-20 before the 30th day after the date on which an order is made, the

7-21 order is considered final and not appealable.

7-22 (d) The commissioner, after giving notice and an

7-23 opportunity for hearing, may impose against a person who violates a

7-24 cease and desist order an administrative penalty in an amount not to

7-25 exceed \$1,000 for each day of the violation. In addition to any

7-26 other remedy provided by law, the commissioner may institute in

7-27 district court a suit for injunctive relief and to collect the

7-28 administrative penalty. A bond is not required of the commissioner

7-29 with respect to injunctive relief granted under this subsection.

7-30 SECTION 4. Section 180.003, Finance Code, is amended by

7-31 amending Subsection (a) and adding Subsection (d) to read as

7-32 follows:

7-33 (a) The following persons are exempt from this chapter:

7-34 (1) a registered mortgage loan originator when acting

7-35 for an entity described by Section 180.002(16)(A)(i), (ii), or

7-36 (iii);

7-37 (2) an individual who offers or negotiates terms of a

7-38 residential mortgage loan with or on behalf of an immediate family

7-39 member of the individual;

7-40 (3) a licensed attorney who negotiates the terms of a

7-41 residential mortgage loan on behalf of a client as an ancillary

7-42 matter to the attorney's representation of the client, unless the

7-43 attorney:

7-44 (A) takes a residential mortgage loan

7-45 application; and

7-46 (B) offers or negotiates the terms of a

7-47 residential mortgage loan;

7-48 (4) an individual who offers or negotiates terms of a

7-49 residential mortgage loan secured by a dwelling that serves as the

7-50 individual's residence;

7-51 (5) subject to Subsection (d), an owner of residential

7-52 real estate who in any 12-consecutive-month period makes no more

7-53 than five residential mortgage loans to purchasers of the property

7-54 for all or part of the purchase price of the residential real estate

7-55 against which the mortgage is secured; and

7-56 (6) subject to Subsection (d), an owner of a dwelling

7-57 who in any 12-consecutive-month period makes no more than five

7-58 residential mortgage loans to purchasers of the property for all or

7-59 part of the purchase price of the dwelling against which the

7-60 mortgage or security interest is secured.

7-61 (d) In determining eligibility for an exemption under

7-62 Subsection (a)(5) or (6), two or more owners of residential real

7-63 estate or a dwelling, as applicable, are considered a single owner

7-64 for the purpose of computing the number of mortgage loans made

7-65 within the period specified by those subdivisions if any of the

7-66 owners are affiliates, as defined by Section 1.002(1), Business

7-67 Organizations Code, or if any of the owners have substantially

7-68 common ownership, as determined by the savings and mortgage lending

7-69 commissioner.

8-1 SECTION 5. This Act takes effect January 1, 2020. C.S.S.B. No. 42

8-2 * * * * *