By:  Zaffirini S.B. No. 1900

(In the Senate - Filed March 12, 2021; March 26, 2021, read first time and referred to Committee on Business & Commerce; April 8, 2021, reported favorably by the following vote: Yeas 9, Nays 0; April 8, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Johnson              X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

A BILL TO BE ENTITLED

AN ACT

relating to the regulatory authority of the savings and mortgage lending commissioner; authorizing fees.

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

SECTION 1.  Section 92.554(a), Finance Code, is amended to read as follows:

(a)  On receipt of an application, the commissioner shall submit to the Texas Register for publication in the next issue after the date the application is received or publish in a newspaper of general circulation that is printed in English in the county in which the savings bank is to have the savings bank's principal office:

(1)  notice of the application;

(2)  the date the application was filed; and

(3)  the identity of each party to the application.

SECTION 2.  Subchapter B, Chapter 96, Finance Code, is amended by adding Section 96.0551 to read as follows:

Sec. 96.0551.  REGULATION AND EXAMINATION OF CERTAIN RELATED ENTITIES. (a) In this section, "state savings bank" has the meaning assigned by Section 31.002.

(b)  The commissioner may regulate and examine, to the same extent as if the services or activities were performed by a state savings bank on its own premises:

(1)  the activities of a state savings bank affiliate; and

(2)  the services or activities of a third-party service provider that a state savings bank or state savings bank affiliate has contracted for or otherwise arranged to be performed on behalf of the state savings bank or state savings bank affiliate.

(c)  The commissioner may collect a fee from an examined third-party service provider or affiliate in connection with each examination to cover the cost of the examination or may collect that fee from the state savings banks that use the examined third-party service provider.

(d)  For purposes of this section, a state savings bank affiliate does not include a company in which ownership or membership is limited to individuals and conditioned by law on the existence and maintenance of professional licensing.

(e)  To promote regulatory efficiency, if, in the preceding 24 months, a third-party service provider or affiliate has been examined by a federal or state financial services regulatory agency or by a member agency of the Federal Financial Institutions Examination Council, or its successor agency, the commissioner may accept the results of that examination instead of conducting the commissioner's own examination of the third-party service provider or affiliate. Nothing in this subsection shall be construed as limiting or restricting the commissioner from participating in an examination of a third-party service provider or affiliate conducted by a federal or state financial services regulatory agency or by a member agency of the Federal Financial Institutions Examination Council, or its successor agency.

(f)  A third-party service provider that refuses to submit to examination or to pay an assessed fee for examination under this section is subject to an enforcement action under Chapter 96. With respect to a third-party service provider's refusal to submit to examination, the commissioner may notify all state savings banks of the refusal and warn that continued use of the third-party service provider may constitute an unsafe and unsound banking practice.

SECTION 3.  Section 97.006, Finance Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f)  The commissioner may:

(1)  examine a holding company that controls a state savings bank to the same extent as if the holding company were a state savings bank; and

(2)  bring an enforcement action under Chapter 96 against a holding company described by Subdivision (1) or other person that violates or participates in a violation of this subtitle, an agreement filed with the commissioner under this chapter, or a rule adopted by the finance commission or order issued by the commissioner under this subtitle, as if the holding company were a state savings bank.

(g)  The grounds, procedures, and effects of an enforcement action brought under Subsection (f) apply to a holding company, an officer, director, or employee of a holding company, or a controlling shareholder or other person participating in the affairs of a holding company in the same manner as the grounds, procedures, and effects apply to a state savings bank, an officer, director, or employee of a state savings bank, or a controlling shareholder or other person participating in the affairs of a state savings bank.

(h)  A state savings bank that is controlled by a holding company that is not a Texas holding company shall be subject to all laws of this state that are applicable to state savings banks that are controlled by Texas holding companies.

SECTION 4.  Section 156.2041(a), Finance Code, is amended to read as follows:

(a)  To be issued a mortgage company license, 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 mortgage company through the Nationwide Mortgage Licensing System and Registry;

(3)  designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual;

(4)  submit a completed branch application through the Nationwide Mortgage Licensing System and Registry for each branch office that engages in residential mortgage loan activity on residential real estate located in this state;

(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 with the appropriate county clerk's office; and

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

[~~(8)~~]  provide financial statements and any other information required by the commissioner.

SECTION 5.  Section 156.2042(a), Finance Code, is amended to read as follows:

(a)  To be issued a credit union subsidiary organization license, 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 organization through the Nationwide Mortgage Licensing System and Registry;

(3)  designate an individual licensed as a residential mortgage loan originator under Chapter 157 as the company's qualifying individual;

(4)  submit a completed branch application through the Nationwide Mortgage Licensing System and Registry for each branch office that engages in residential mortgage loan activity on residential real estate located in this state; and

(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[~~; and~~

[~~(6)  maintain a physical office in this state~~].

SECTION 6.  Section 156.501(c), Finance Code, is amended to read as follows:

(c)  Amounts in the recovery fund may be invested and reinvested in accordance with Chapter 2256, Government Code, and under the prudent person standard described by Section 11b, Article VII, Texas Constitution [~~in the same manner as funds of the Employees Retirement System of Texas~~], and the interest from these investments shall be deposited to the credit of the fund. An investment may not be made under this subsection if the investment will impair the necessary liquidity required to satisfy judgment payments awarded under this subchapter.

SECTION 7.  The following provisions of the Finance Code are repealed:

(1)  Sections 156.212(a) and (a-1);

(2)  Sections 156.501(d) and (f); and

(3)  Section 156.502(b).

SECTION 8.  Section 92.554(a), Finance Code, as amended by this Act, applies only to an application filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

SECTION 9.  Section 156.501(c), Finance Code, as amended by this Act, applies only to an investment made on or after the effective date of this Act. An investment made before the effective date of this Act is governed by the law in effect on the date the investment was made, and the former law is continued in effect for that purpose.

SECTION 10.  This Act takes effect September 1, 2021.

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