

SENATE AMENDMENTS

2nd Printing

By: Anchia

H.B. No. 3617

A BILL TO BE ENTITLED

AN ACT

relating to certain qualifications and requirements for residential mortgage loan companies.

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

SECTION 1. Section 156.2041, Finance Code, is amended to read as follows:

Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR LICENSE: MORTGAGE COMPANY. [~~(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) if applicable, 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

1 commissioner to the applicant;

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

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

6 [~~8~~] provide financial statements and any other
7 information required by the commissioner.

8 SECTION 2. Section 156.2042, Finance Code, is amended to
9 read as follows:

10 Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR
11 LICENSE: CREDIT UNION SUBSIDIARY ORGANIZATION. [~~(a)~~] To be issued
12 a credit union subsidiary organization license, 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 organization
17 through the Nationwide Mortgage Licensing System and Registry;

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

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

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 applicant [~~, and~~

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

2 SECTION 3. Section 156.212, Finance Code, is amended to
3 read as follows:

4 Sec. 156.212. MAINTENANCE AND LOCATION OF OFFICES. ~~[(a)~~
5 ~~Each residential mortgage loan company licensed under this chapter~~
6 ~~shall maintain a physical office in this state.~~

7 ~~[(a-1) If a residential mortgage loan company's main office~~
8 ~~is outside this state, the requirement of Subsection (a) is~~
9 ~~satisfied if the company has a branch office located in this state.~~

10 ~~[(b)]~~ If a residential mortgage loan company maintains an
11 office separate and distinct from the company's main office,
12 whether located in this state or not, that conducts mortgage
13 business with consumers of this state or regarding residential real
14 estate in this state, the company shall apply for, pay a fee of \$50
15 for, and obtain an additional license to be known as a branch office
16 license for each additional office to be maintained by the company.

17 SECTION 4. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2021.

ADOPTED

By: *Zaffirini*

MAY 24 2021

H.B. No. 3617

Substitute the following for ___B. No.

Lacey
Secretary of the Senate

By: *Kelly Harwood*

C.S. ___B. No. _____

A BILL TO BE ENTITLED

1

AN ACT

2 relating to certain qualifications and requirements for
3 residential mortgage loan companies, the investment and use of
4 excess residential mortgage loan originator recovery fund fees, and
5 the creation of the mortgage grant fund; changing a fee.

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

7 SECTION 1. Section 13.016, Finance Code, is amended to read
8 as follows:

9 Sec. 13.016. RECOVERY FUND. (a) Except as provided by
10 Subchapter G, Chapter 156, the [~~The~~] savings and mortgage lending
11 commissioner shall establish, administer, and maintain one
12 recovery fund for the purposes of Chapters 156 and 157. The
13 recovery fund shall be administered and maintained under Subchapter
14 F, Chapter 156.

15 (b) The savings and mortgage lending commissioner's
16 authority under this section includes the authority to[+]

17 [~~(1) set fee amounts under Chapters 156 and 157 for~~
18 ~~deposit in the recovery fund; and~~

19 [~~(2)~~] enforce disciplinary action as provided by
20 Chapters 156 and 157 for a person's failure to comply with the
21 applicable provisions of those chapters relating to the recovery
22 fund and with applicable rules adopted under those chapters.

23 SECTION 2. Section 156.2041, Finance Code, is amended to
24 read as follows:

1 Sec. 156.2041. QUALIFICATIONS AND REQUIREMENTS FOR
2 LICENSE: MORTGAGE COMPANY. [~~a~~] To be issued a mortgage company
3 license, an applicant must:

4 (1) submit a completed application together with the
5 payment of applicable fees through the Nationwide Mortgage
6 Licensing System and Registry;

7 (2) designate control persons for the mortgage company
8 through the Nationwide Mortgage Licensing System and Registry;

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

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

17 (5) not be in violation of this chapter, a rule adopted
18 under this chapter, or any order previously issued by the
19 commissioner to the applicant;

20 (6) have the company name or assumed name properly
21 filed with either the secretary of state or with the appropriate
22 county clerk's office; and

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

24 [~~8~~] provide financial statements and any other
25 information required by the commissioner.

26 SECTION 3. Section 156.2042, Finance Code, is amended to
27 read as follows:

1 Sec. 156.2042. QUALIFICATIONS AND REQUIREMENTS FOR
2 LICENSE: CREDIT UNION SUBSIDIARY ORGANIZATION. [~~(a)~~] To be issued
3 a credit union subsidiary organization license, an applicant must:
4 (1) submit a completed application together with the
5 payment of applicable fees through the Nationwide Mortgage
6 Licensing System and Registry;
7 (2) designate control persons for the organization
8 through the Nationwide Mortgage Licensing System and Registry;
9 (3) designate an individual licensed as a residential
10 mortgage loan originator under Chapter 157 as the company's
11 qualifying individual;
12 (4) submit a completed branch application through the
13 Nationwide Mortgage Licensing System and Registry for each branch
14 office that engages in residential mortgage loan activity on
15 residential real estate located in this state; and
16 (5) not be in violation of this chapter, a rule adopted
17 under this chapter, or any order previously issued by the
18 commissioner to the applicant[~~, and~~
19 ~~[(6) maintain a physical office in this state].~~

20 SECTION 4. Section 156.212, Finance Code, is amended to
21 read as follows:

22 Sec. 156.212. MAINTENANCE AND LOCATION OF OFFICES. [~~(a)~~]
23 ~~Each residential mortgage loan company licensed under this chapter~~
24 ~~shall maintain a physical office in this state.~~

25 ~~[(a-1) If a residential mortgage loan company's main office~~
26 ~~is outside this state, the requirement of Subsection (a) is~~
27 ~~satisfied if the company has a branch office located in this state.~~

1 ~~(b)~~ If a residential mortgage loan company maintains an
2 office separate and distinct from the company's main office,
3 whether located in this state or not, that conducts mortgage
4 business with consumers of this state or regarding residential real
5 estate in this state, the company shall apply for, pay a fee of \$50
6 for, and obtain an additional license to be known as a branch office
7 license for each additional office to be maintained by the company.

8 SECTION 5. Sections 156.501(b) and (c), Finance Code, are
9 amended to read as follows:

10 (b) Subject to this subsection and Section 156.502(b), the
11 recovery fund shall be used to reimburse residential mortgage loan
12 applicants for actual damages incurred because of acts committed by
13 a residential mortgage loan originator who was licensed under
14 Chapter 157 when the act was committed. The use of the fund is
15 limited to reimbursement for out-of-pocket losses caused by an act
16 by a residential mortgage loan originator licensed under Chapter
17 157 that constitutes a violation of Section 157.024(a)(2), (3),
18 (5), (7), (8), (9), (10), (13), (16), (17), or (18) or 156.304(b).

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

1 SECTION 6. Section 156.502, Finance Code, is amended to
2 read as follows:

3 Sec. 156.502. FUNDING. (a) On an application for an
4 original license [~~or for renewal of a license~~] issued under Chapter
5 157, the applicant, in addition to paying the original application
6 fee [~~or renewal fee~~], shall pay a fee in the [an] amount of
7 [~~determined by the commissioner, not to exceed~~] \$20. The fee shall
8 be deposited in the recovery fund.

9 (a-1) All or any portion of the amount of a penalty that is
10 collected by the commissioner under Sections 156.302, 156.303,
11 157.023, 157.024, 157.031, 158.105, and 180.202, as determined by
12 the commissioner, may be deposited to the credit of the recovery
13 fund at the end of each fiscal year.

14 (b) If the balance remaining in the recovery fund at the end
15 of a calendar year is more than \$3.5 million, the amount of money in
16 excess of that amount shall be remitted by the commissioner to the
17 comptroller for deposit in the mortgage grant fund established
18 under Subchapter G [~~available to the commissioner to offset the~~
19 ~~expenses of participating in and sharing information with the~~
20 ~~Nationwide Mortgage Licensing System and Registry in accordance~~
21 ~~with Chapter 180~~].

22 SECTION 7. Chapter 156, Finance Code, is amended by adding
23 Subchapter G to read as follows:

24 SUBCHAPTER G. MORTGAGE GRANT FUND

25 Sec. 156.551. MORTGAGE GRANT FUND. (a) The commissioner
26 shall establish, administer, and maintain a mortgage grant fund as
27 provided by this subchapter. The amounts received by the

1 commissioner for deposit in the fund shall be held by the
2 commissioner in trust for carrying out the purposes of the fund.

3 (b) All or any portion of the amount of a penalty that is
4 collected by the commissioner under Sections 156.302, 156.303,
5 157.023, 157.024, 157.031, 158.105, and 180.202, as determined by
6 the commissioner, may be deposited to the credit of the mortgage
7 grant fund at the end of each fiscal year.

8 Sec. 156.552. FUNDING. The mortgage grant fund consists
9 of:

10 (1) penalties collected by the commissioner and
11 deposited to the credit of the fund in accordance with Section
12 156.551(b); and

13 (2) excess amounts transferred from the recovery fund
14 under Section 156.502(b).

15 Sec. 156.553. MANAGEMENT OF FUND. (a) The commissioner, as
16 manager of the mortgage grant fund, shall:

17 (1) subject to Subsection (b), invest and reinvest the
18 assets of the fund;

19 (2) make disbursements from the fund in accordance
20 with Section 156.554;

21 (3) advise the finance commission regarding the fund;

22 (4) maintain books and records for the fund as
23 required by the finance commission; and

24 (5) appear at hearings or judicial proceedings related
25 to the fund.

26 (b) Amounts in the mortgage grant fund may be invested and
27 reinvested in accordance with Chapter 2256, Government Code, and

1 under the prudent person standard described in Section 11b, Article
2 VII, Texas Constitution.

3 Sec. 156.554. DISBURSEMENT FROM FUND. (a) The
4 commissioner shall approve each disbursement from the mortgage
5 grant fund, which must be for a purpose authorized by Subsection
6 (b).

7 (b) The commissioner:

8 (1) to the extent the commissioner determines the fund
9 has sufficient assets available, shall provide a grant in an amount
10 of not less than \$100,000 each year to an auxiliary mortgage loan
11 activity company or another statewide nonprofit organization that
12 supports organizations described by Section 156.202(a-1)(1) for
13 the purposes of:

14 (A) providing statewide training and technical
15 assistance to entities described by Section 156.202(a-1);

16 (B) servicing third-party mortgage loans;

17 (C) providing financial education to consumers
18 that relates to mortgage loans; and

19 (D) administering disaster repair programs and
20 preparedness resources for consumers with mortgage loans;

21 (2) shall make disbursements from the fund to pay
22 claims made under Section 156.555 that meet the requirements for
23 payment under that section; and

24 (3) may make disbursements from the fund to:

25 (A) provide support for statewide financial
26 education, activities, and programs specifically related to
27 mortgage loans for consumers, including activities and programs

1 described by Section 393.628(c); and

2 (B) if a governor's declaration of a state of
3 disaster under Section 418.014, Government Code, is in effect, a
4 governmental or nonprofit organization providing mortgage payment
5 assistance for residence homesteads, as defined by Section 11.13,
6 Tax Code, as needed due to the disaster.

7 Sec. 156.555. PAYMENT OF CLAIMS FOR FRAUDULENT UNLICENSED
8 ACTIVITY. (a) A residential mortgage loan applicant may make a
9 claim on and receive payment from the mortgage grant fund for the
10 recovery of the applicant's actual, out-of-pocket damages incurred
11 because of fraud committed by an individual who acted as a
12 residential mortgage loan originator but who did not hold the
13 required license issued under Chapter 157 at the time the
14 individual committed the fraudulent act.

15 (b) The eligibility and procedural requirements for a claim
16 made under Section 156.504 and the statute of limitations under
17 Section 156.503 apply to a residential mortgage loan applicant who
18 makes a claim under this section.

19 (c) Payments made from the mortgage grant fund to a
20 residential mortgage loan applicant under this section are subject
21 to the limits provided by Section 156.505.

22 Sec. 156.556. RULES. The finance commission shall adopt
23 rules to administer this subchapter, including rules governing
24 implementation of Section 156.554 that:

25 (1) ensure a grant awarded under that section is used
26 for a public purpose described by that section; and

27 (2) provide a means of recovering money awarded that

1 is not used in compliance with that section.

2 SECTION 8. Section 157.013(b), Finance Code, is amended to
3 read as follows:

4 (b) An application for a residential mortgage loan
5 originator license must be accompanied by:

6 (1) an application fee in an amount determined by the
7 commissioner, not to exceed \$500; and

8 (2) for an original license, a recovery fund fee in the
9 ~~[an]~~ amount of ~~[determined by the commissioner, not to exceed]~~ \$20.

10 SECTION 9. Sections 156.501(d) and (f), Finance Code, are
11 repealed.

12 SECTION 10. Section 156.501(c), Finance Code, as amended by
13 this Act, applies only to an investment made on or after the
14 effective date of this Act. An investment made before the effective
15 date of this Act is governed by the law as it existed immediately
16 before that date, and that law is continued in effect for that
17 purpose.

18 SECTION 11. This Act takes effect September 1, 2021.

ADOPTED

MAY 24 2021

Lately Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

Zaffirini

1 Amend C.S.H.B. No. 3617 (senate committee report) in SECTION
2 7 of the bill as follows:

3 (1) In added section 156.551(b), Finance Code (page 3, line
4 25), strike "All" and substitute "Subject to Subsection (c), all".

5 (2) Immediately following added Section 156.551(b), Finance
6 Code (page 3, line 29), insert the following:

7 (c) The balance of the mortgage grant fund may not at any
8 time exceed \$300,000.

9 (3) Strike added Section 156.554(b)(1), Finance Code (page
10 3, lines 57 through 69), and substitute the following:

11 (1) may provide grants in an aggregate amount of not
12 more than \$100,000 each year to an auxiliary mortgage loan activity
13 company or another nonprofit organization for the purposes of:

14 (A) providing to consumers financial education
15 relating to mortgage loans; and

16 (B) providing to other nonprofit organizations
17 training in order for those organizations to provide to consumers
18 financial education relating to mortgage loans;

19 (4) Strike added Section 156.554(b)(3), Finance Code (page
20 4, lines 4 through 13), and substitute the following:

21 (3) may make disbursements from the fund to provide
22 support for statewide financial education, activities, and
23 programs specifically related to mortgage loans for consumers,
24 including activities and programs described by Section 393.628(c).

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 26, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3617 by Anchia (Relating to certain qualifications and requirements for residential mortgage loan companies, the investment and use of excess residential mortgage loan originator recovery fund fees, and the creation of the mortgage grant fund; changing a fee.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would amend the Finance Code as it relates to qualifications and requirements of licensed mortgage companies as well as the creation and utilization of certain funds.

It is assumed that any costs associated with the bill's provisions could be absorbed using existing agency resources. The Department of Savings and Mortgage Lending is a self-directed, semi-independent state entity and does not receive appropriated funds and is responsible for funding all direct and indirect operational costs and sets the amount of fees, penalties, charges, and revenues required to cover these costs.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Dept Savings and Mortgage Lending

LBB Staff: JMc, LBO, EJ, SZ, AAL, MB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 21, 2021

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3617 by Anchia (relating to certain qualifications and requirements for residential mortgage loan companies, the investment and use of excess residential mortgage loan originator recovery fund fees, and the creation of the mortgage grant fund; changing a fee.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend the Finance Code as it relates to qualifications and requirements of licensed mortgage companies.

It is assumed that any costs associated with the bill's provisions could be absorbed using existing agency resources. The Department of Savings and Mortgage Lending is a self-directed, semi-independent state entity and does not receive appropriated funds and is responsible for funding all direct and indirect operational costs and sets the amount of fees, penalties, charges, and revenues required to cover these costs.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Dept Savings and Mortgage Lending

LBB Staff: JMc, SZ, EJ, AAL, MB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 18, 2021

TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB3617** by Anchia (Relating to certain qualifications and requirements for residential mortgage loan companies.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend the Finance Code as it relates to qualifications and requirements of licensed mortgage companies.

The DSML has indicated that any costs associated with the bill's provisions could be absorbed using existing agency resources. The DSML is a self-directed, semi-independent state entity and does not receive appropriated funds and is responsible for funding all direct and indirect operational costs and sets the amount of fees, penalties, charges, and revenues required to cover these costs.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Dept Savings and Mortgage Lending

LBB Staff: JMc, SZ, EJ, AAL, MB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

March 30, 2021

TO: Honorable Rafael Anchia, Chair, House Committee on Pensions, Investments & Financial Services

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3617 by Anchia (Relating to certain qualifications and requirements of licensed mortgage companies and the regulation of the Department of Savings and Mortgage Lending.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Finance Code as it relates to qualifications and requirements of licensed mortgage companies and the regulation of the Department of Savings and Mortgage Lending (DSML).

The DSML has indicated that any costs associated with the bill's provisions could be absorbed using existing agency resources. The DSML is a self-directed, semi-independent state entity and does not receive appropriated funds and is responsible for funding all direct and indirect operational costs and sets the amount of fees, penalties, charges, and revenues required to cover these costs.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Dept Savings and Mortgage Lending

LBB Staff: JMc, AAL, MB, EJ