

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE E. OTHER FINANCIAL BUSINESSES

CHAPTER 157. REGISTRATION OF MORTGAGE BANKERS

Sec. 157.001. SHORT TITLE. This chapter may be cited as the Mortgage Banker Registration Act.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Sec. 157.002. DEFINITIONS. In this chapter:

(1) "Commissioner" means the savings and mortgage lending commissioner.

(2) "Mortgage banker" means a person who:

(A) accepts an application for a mortgage loan or makes a mortgage loan; and

(B) is an approved or authorized:

(i) mortgagee with direct endorsement underwriting authority granted by the United States Department of Housing and Urban Development;

(ii) seller or servicer of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(iii) issuer for the Government National Mortgage Association.

(3) "Mortgage loan" means a debt secured by a first lien on residential real property designed principally for occupancy by one to four families that is created by a deed of trust, security deed, or other security instrument.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 6.053, eff. September 1, 2007.

Sec. 157.003. REGISTRATION REQUIRED. (a) A person must register under this chapter before the person may conduct the business of a mortgage banker in this state, unless the person is

exempt under this section or Section 157.004.

(b) To register under this chapter, a mortgage banker shall file with the commissioner a statement that contains:

(1) the name and address of the mortgage banker;

(2) the name, address, and telephone number of the representative of the mortgage banker to be contacted regarding a written complaint; and

(3) a list of the locations in this state at which the person conducts the business of a mortgage banker.

(c) An employee of a mortgage banker is not required to register under this chapter.

(d) The commissioner may not require a mortgage banker to provide information other than information contained in the registration statement.

(e) The registration of a mortgage banker is valid until withdrawn or revoked. Periodic renewal of the registration is not required.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Sec. 157.004. EXEMPTIONS. This chapter does not apply to:

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

(2) an affiliate or subsidiary of a federally insured bank, savings bank, savings and loan association, Farm Credit System Institution, or credit union;

(3) a person licensed as a mortgage broker under Chapter 156; or

(4) an authorized lender licensed under Chapter 342 if:

(A) the authorized lender includes with an application for a mortgage loan a notice that is substantially similar to the notice required by Section 157.007 and provides the method of submitting complaints to the consumer credit commissioner;

(B) the authorized lender uses the forms adopted by the Finance Commission of Texas under Section 157.011(b); and

(C) the Finance Commission of Texas determines by rule that the consumer credit commissioner may suspend or revoke a license issued under Chapter 342 if the authorized lender engages in unlawful or unfair practices while making a mortgage loan.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Sec. 157.005. UPDATE OF REGISTRATION STATEMENT. A mortgage banker shall update information contained in the registration statement not later than the 30th day after the date the information changes.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Sec. 157.006. REGISTRATION AND ADMINISTRATION FEE. The commissioner may charge a mortgage banker a reasonable fee to cover the costs of filing the registration statement and administering this chapter. The fee may not exceed \$500 a year.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Sec. 157.007. DISCLOSURE STATEMENT. A mortgage banker shall include the following notice to a mortgage loan applicant with an application for a mortgage loan:

"COMPLAINTS REGARDING MORTGAGE BANKERS SHOULD BE SENT TO THE DEPARTMENT OF SAVINGS AND MORTGAGE LENDING, _____ (street address of the Department of Savings and Mortgage Lending). A TOLL-FREE CONSUMER HOTLINE IS AVAILABLE AT _____ (telephone number of the Department of Savings and Mortgage Lending's toll-free consumer hotline)."

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 6.054, eff. September 1, 2007.

Sec. 157.008. COMPLAINTS. (a) If the Department of Savings and Mortgage Lending receives a signed written complaint from a person concerning a mortgage banker, the commissioner shall notify the representative designated by the mortgage banker under Section 157.003(b) in writing of the complaint and provide a copy of

the complaint to the representative.

(b) The commissioner may request documentary and other evidence considered by the commissioner as necessary to effectively evaluate the complaint, including correspondence, loan documents, and disclosures. A mortgage banker shall promptly provide any evidence requested by the commissioner.

(c) The commissioner may require the mortgage banker to resolve the complaint or to provide the commissioner with a response to the complaint. The commissioner may direct the mortgage banker in writing to take specific action to resolve the complaint.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 6.055, eff. September 1, 2007.

Sec. 157.009. TERMINATION OF REGISTRATION. (a) A mortgage banker may withdraw the mortgage banker's registration at any time.

(b) The commissioner may revoke the registration of a mortgage banker if the mortgage banker fails to pay the registration and administration fee and fails to cure the default before the 30th day after the date the mortgage banker receives notice of the default from the commissioner.

(c) The commissioner may revoke the registration of a mortgage banker if the mortgage banker fails or refuses to comply with the commissioner's written request for a response to a complaint.

(d) The commissioner may revoke the registration of a mortgage banker after considering a complaint filed under this chapter if the commissioner concludes that the mortgage banker has engaged in an intentional course of conduct to violate federal or state law or has engaged in an intentional course of conduct that constitutes improper, fraudulent, or dishonest dealings. The commissioner shall recite the basis of the decision in an order revoking the registration.

(e) If the commissioner proposes to revoke a registration

under Subsection (c) or (d), the mortgage banker is entitled to a hearing before the commissioner or a hearings officer, who shall propose a decision to the commissioner. The commissioner or hearings officer shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(f) A mortgage banker aggrieved by a ruling, order, or decision of the commissioner is entitled to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Sec. 157.010. REREGISTRATION.

(a) A mortgage banker whose registration is revoked by the commissioner may register again only after receiving the authorization of the commissioner. The commissioner shall authorize the registration if the commissioner concludes that the mortgage banker will comply with state and federal law and will not engage in improper, fraudulent, or dishonest dealings.

(b) A mortgage banker who seeks registration under this section may request and is entitled to a hearing before the commissioner or a hearings officer, who shall propose a decision to the commissioner. The hearing is governed by Chapter 2001, Government Code.

(c) If the commissioner denies authorization for the registration of a mortgage banker under this section, the commissioner shall recite the basis of the decision in an order denying the authorization.

(d) If the commissioner denies authorization for the registration of a mortgage banker under this section, the mortgage banker is entitled to appeal to a district court in Travis County. An appeal brought under this subsection is governed by Chapter 2001, Government Code.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.

Sec. 157.011. RULEMAKING AUTHORITY. (a) The Finance Commission of Texas may adopt rules necessary to implement or fulfill the purpose of this chapter.

(b) The Finance Commission of Texas may by rule adopt standard forms for, and require the use of the forms by, a mortgage banker who represents that an applicant for a loan is preapproved or has prequalified for the loan.

Added by Acts 2003, 78th Leg., ch. 1301, Sec. 1, eff. Jan. 1, 2004.