

BILL ANALYSIS

Senate Research Center

H.B. 1636
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Business & Commerce
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Engrossed

DIGEST AND PURPOSE

The Texas Savings and Loan Department (department) protects the depositors of Texas by ensuring the safe and sound operation of state-chartered savings institutions. In 1999, the legislature also gave the department responsibility for licensing mortgage brokers. The Sunset Advisory Commission review of the department began shortly after the 76th Regular Session and provides several recommendations relating to licensing of mortgage brokers, criminal background information, and routine inspections. H.B. 1636 continues the department until 2013 and applies the recommendations of the Sunset Advisory Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the finance commission in SECTION 10 (Section 156.301, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.010, Finance Code, as follows

Sec. 13.010. CONFLICT OF INTEREST. (a) Defines "Texas trade association."

(b) Prohibits a person from being a Savings and Loan Department (department) employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if certain conditions exist.

(c) Prohibits a person from acting as the general counsel to the department if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. Deletes text regarding an officer or employee of the department.

SECTION 2. Amends Section 13.011, Finance Code, as follows:

(c) Requires the department to maintain a file on each written complaint filed with the department. Requires the file to include certain information.

(d) Requires the department to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the department's policies and procedures relating to complaint investigation and resolution.

(e) Requires the department, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation. Deletes text regarding information file.

SECTION 3. Amends Section 13.012, Finance Code, as follows:

Sec. 13.012. SUNSET PROVISION. Provides that unless continued in existence as provided by the Texas Sunset Act, the office and department are abolished September 1, 2013, rather than 2001.

SECTION 4. Amends Chapter 13, Finance Code, by adding Sections 13.013-13.015, as follows:

Sec. 13.013. STANDARDS OF CONDUCT. Requires the savings and loan commissioner (commissioner) or the commissioner's designee to provide to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 13.014. EQUAL EMPLOYMENT OPPORTUNITY POLICY. (a) Requires the commissioner or the commissioner's designee to prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to certain factors.

(b) Requires the policy statement to include certain information.

(c) Requires the policy statement to meet certain conditions.

Sec. 13.015. EMPLOYEE INCENTIVE PROGRAM. Requires the commissioner or the commissioner's designee to provide to agency employees information and training on the benefits and methods of participation in the state employee incentive program.

SECTION 5. Amends Section 156.206(b), Finance Code, to require the commissioner to obtain criminal history record information on an applicant that is maintained by the Department of Public Safety (DPS) and to obtain criminal history, rather than background, information on an applicant maintained by the Federal bureau of Investigation (FBI). Deletes text regarding requiring applicants to submit certain information. Makes a conforming change.

SECTION 6. Amends Section 156.207, Finance Code, as follows:

Sec. 156.207. ISSUANCE OF LICENSE CERTIFICATE; PROVISIONAL LICENSE.

(c) Requires the commissioner, if the commissioner has not received criminal history record information from the FBI before the 61st day after the date the commissioner requested the information, to issue a provisional license to the applicant, if the applicant otherwise meets all requirements and conditions for a license. Provides that if the commissioner has not received criminal history record information from the FBI before the 181st day after the date the commissioner requested the information, the provisional status of the license ends and, except as provided by Subsection (d), the license is subject to the provisions of this chapter and other law applicable to a license issued to an applicant who meets all requirements and conditions for a license under this chapter.

(d) Authorizes the commissioner to revoke a license issued under Subsection (c) regardless of whether the license is provisional on a ground listed under Section 156.303 or on any ground that the commissioner could have denied issuance of the license on the application. Deletes text regarding provisional. Makes a conforming change.

SECTION 7. Amends Chapter 156C, Finance Code, by adding Section 156.2071, as follows:

Sec. 156.2071. PERSON LICENSED IN OTHER JURISDICTION. (a) Authorizes the

commissioner to waive any prerequisite to obtaining a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

- (b) Authorizes the commissioner to issue a provisional license to an applicant currently licensed in another jurisdiction who seeks a license in this state and who meets certain criteria.
- (c) Authorizes the commissioner to waive the requirement of Subsection (b)(3) for an applicant if the commissioner determines that compliance with that subsection would be a hardship to the applicant.
- (d) Provides that a provisional license under this section is valid until the date the commissioner approves or denies the provisional license holder's application for a license. Requires the commissioner to issue a license under this chapter to the provisional license holder if certain criteria exists.
- (e) Requires the commissioner to approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued.
- (f) Authorizes the finance commission to establish a fee for provisional licenses under this section in an amount reasonable and necessary to cover the cost of issuing the license.

SECTION 8. Amends Chapter 156C, Finance Code, by adding Section 156.2081, as follows:

- Sec. 156.2081. RENEWAL AFTER EXPIRATION; NOTICE. (a) Prohibits a person whose license has expired from engaging in activities that require a license until the license has been renewed.
- (b) Authorizes a person whose license has been expired for 90 days or less but who is otherwise eligible to renew a license to renew the license by paying to the commissioner a renewal fee that is equal to 1-1/2 times the normally required renewal fee.
 - (c) Authorizes a person whose license has been expired for more than 90 days but less than one year but who is otherwise eligible to renew a license to renew the license by paying to the commissioner a renewal fee that is equal to two times the normally required renewal fee.
 - (d) Prohibits a person whose license has been expired for one year or more from renewing the license. Authorizes the person to obtain a new license by complying with the requirements and procedures for obtaining an original license.
 - (e) Authorizes a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application to obtain a new license by paying to the commissioner a fee that is equal to two times the normally required renewal fee for the license.
 - (f) Requires the commissioner, not later than the 30th day before the date a person's license is scheduled to expire, to send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

SECTION 9. Amends Chapter 156C, Finance Code, by adding Section 156.213, as follows:

Sec. 156.213. ANNUAL REPORT. (a) Requires each licensed broker to file an annual report with the department. Requires the report to include certain information.

(b) Provides that trade information, including information used to determine statistical entries in the report related to loan origination volume, is confidential and is prohibited from being disclosed by the department.

SECTION 10. Amends Section 156.301, Finance Code, as follows:

Sec. 156.301. New heading: INSPECTIONS; INVESTIGATIONS. (a) Authorizes the commissioner to conduct inspections of a person licensed under this chapter as the commissioner determines necessary to determine whether the person is complying with this chapter and applicable rules. Authorizes the inspections to include inspection of the books, records, documents, operations, and facilities of the person and access to any documents required under rules adopted under this chapter. Authorizes the commissioner to share evidence of criminal activity gathered during an inspection or investigation with any state or federal law enforcement agency.

(c) Authorizes the commissioner at any time, for reasonable cause, to investigate a person licensed under this chapter to determine whether the person is complying with this chapter and applicable rules. Deletes text regarding investigation. Makes a conforming change.

(e) Requires the finance commission by rule to provide guidelines to govern an inspection or an investigation, including rules to meet certain criteria.

(f) Provides that the information obtained by the commissioner during an inspection or an investigation is confidential unless disclosure of the information is permitted or required by other law. Deletes text regarding employee of the commissioner.

SECTION 11. Amends Section 156.302(e), Finance Code, to provide that an appeal of an administrative penalty under this section is considered to be a contested case under Chapter 2001 (Administrative Procedure), Government Code.

SECTION 12. Effective date: September 1, 2001.