

## **BILL ANALYSIS**

Senate Research Center

S.B. 962  
By: Patterson  
Economic Development  
5-22-97  
As Filed

### **DIGEST**

Currently, brokers under a license are not qualified to make small loans similar to loans made under the Consumer Credit Commission or to make home equity loans. This bill would qualify brokers under a license to make small loans similar to loans being made under the Consumer Credit Commission and enable them to make home equity loans.

### **PURPOSE**

As proposed, S.B. 962 would qualify brokers under a license to make small loans similar to loans being made under the Consumer Credit Commission and enable them to make home equity loans.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the consumer credit commissioner in SECTION 1(Sections 12 and 15, Article 9001, V.T.C.S.) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter20,V.T.C.S., by adding Article 9001, as follows:

#### **ARTICLE 9001. MORTGAGE BROKER REGISTRATION**

Sec. 1. DEFINITIONS. Defines "borrower," "commissioner," "consumer reporting agency," "mortgage," "mortgage banker," mortgage broker," "person," "registrant," and "secondary market transaction."

Sec. 2. CERTIFICATE OF REGISTRATION REQUIREMENT. Sets forth requirements for acting as a mortgage broker.

Sec. 3. APPLICATION FOR CERTIFICATE OF REGISTRATION. Sets forth requirements and procedures for an application for certificate of registration as a mortgage broker.

Sec. 4. ISSUANCE OF CERTIFICATE OF REGISTRATION. Sets forth requirements and procedures for the issuance of certificate of registration.

Sec. 5. MINIMUM NET WORTH. Requires a registrant that conducts business as a mortgage broker to maintain a net worth of at least \$25,000 and a surety bond in the amount of the certificate of registration. Authorizes the consumer credit commissioner (commissioner), by written notice, to require an audited financial statement by an independent certified accountant, if the commission determines the registrant's net worth is deficient or inflated. Defines "net worth."

Sec. 6. EXAMINATION AND MAINTENANCE OF RECORDS. Authorizes the commissioner to examine a registrant's records pertaining to business transacted under this article. Requires a registrant to maintain certain records for each borrower. Sets forth requirements for maintaining records. Provides that certain information gained by the commissioner is confidential, except when it is necessary for the commissioner to take official action.

Sec. 7. PROHIBITIONS. Prohibits a registrant for a certificate of registration from taking certain

actions.

Sec. 8. FEES. Sets forth requirement for fees a registrant may or may not charge, or must return. Defines "bona fide third party."

Sec. 9. ADVERTISING. Sets forth advertising requirements for a registrant.

Sec. 10. SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE; INVESTIGATIONS; CEASE AND DESIST ORDERS. Sets forth requirements and procedures for the suspension, revocation, or refusal of a license. Sets forth procedures and requirements for investigations and cease and desist orders.

Sec. 11. CIVIL ACTIONS; INJUNCTIVE RELIEF; CRIMINAL PROSECUTIONS. Establishes who may bring a civil or criminal action and sets forth damage requirements. Provides that remedies provided by this section are in addition to other remedies provided by law. Provides that the burden of proving an exemption is on the person claiming the benefit of the exemption. Provides situations which a person does not violate this article. Provides for completion of a registrant's services. Sets forth situations in which this subsection does not limit nor preclude the civil or criminal liability of a registrant.

Sec. 12. RULEMAKING POWERS. Authorizes the commissioner to adopt rules to enforce this article.

Sec. 13. MORTGAGE BROKER ADVISORY COMMISSION. Requires an advisory commission to be established. Sets forth the constituency and appointment of the members of the advisory commission.

Sec. 14. EFFECT ON TEXAS CREDIT SERVICES ORGANIZATIONS ACT. Provides that a registrant is exempt from the requirements of Chapter 18, Business and Commerce Code, to the extent that the registrant does not charge a fee for any services regulated under that chapter.

Sec. 15. CONTINUING EDUCATION. Requires a registrant to complete 8 hours of continuing education per year. Requires the commissioner, by rule, to approve courses for continuing education.

Sec. 16. SECONDARY MARKET TRANSACTION. Provides that this article does not prohibit a mortgage broker from receiving compensation from a party other than the borrower for the sale, transfer, assignment, or release of rights on the closing of a mortgage transaction.

Sec. 17. PENALTIES. Provides that a person commits a Class A misdemeanor for violating Section 2, 7, or 8(a) or (b) of this article.

SECTION 2. Effective date: September 1, 1997.

Provides that a person is not required to be registered before January 1, 1998.

SECTION 3. Emergency clause.