

## **BILL ANALYSIS**

Senate Research Center

S.B. 1141  
By: Carona  
Business & Commerce  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, mortgage brokers in Texas are required to have a license under the Mortgage Broker License Act with the savings and loan commissioner (which covers first lien mortgages and constitutes the vast majority of mortgage origination) and, in order to make second lien mortgages, mortgage brokers must get a separate license from the Office of the Consumer Credit Commissioner (OCCC) under Chapter 342, Finance Code. This regulatory structure results in inefficiency, additional cost, multiple examinations and two separate sets of regulations for the mortgage broker industry.

In contrast, rather than having two sets of regulators for depository institutions, the savings and loan commissioner is authorized by statute to address second lien lending compliance issues for the savings institutions under his jurisdiction and the banking commissioner is responsible for second lien lending compliance for state banks.

As proposed, S.B. 1141 transfers second lien mortgage regulation from the OCCC to the Texas Savings and Loan Department for licensed mortgage brokers, thereby creating more efficient government regulation by eliminating the duplication of examination and regulatory efforts.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 156.002(10), Finance Code, to redefine "mortgage loan."

SECTION 2. Amends Section 156.303(a), Finance Code, to include a violation of any provision of Chapter 342 (Consumer Loans) by a licensed mortgage broker or a licensed loan officer as subject to disciplinary action by the savings and loan commissioner (commissioner) upon the commissioner's post-hearing determination that said violation took place.

SECTION 3. Amends Subchapter D, Chapter 156, Finance Code, by adding Section 156.305, as follows:

Sec. 156.305. EXCLUSIVE JURISDICTION OF COMMISSIONER. Requires the commissioner to have exclusive jurisdiction to order disciplinary action against any licensed mortgage broker or licensed loan officer if the commissioner, after a hearing, has determined that the person has violated any provision of Chapter 342 or any rule or order adopted by the commissioner or the Office of Consumer Credit Commissioner relating to secondary mortgage loans.

SECTION 4. Amends Section 342.051(c), Finance Code, to include a person regulated by this state as a mortgage broker under Chapter 156 as a person who is not required to obtain a license under Subsection (a).

SECTION 5. Effective date: September 1, 2005.