

BILL ANALYSIS

Senate Research Center
83R11857 CLG-D

C.S.S.B. 232
By: Carona
Business & Commerce
3/5/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Nationwide Mortgage Licensing System and Registry (NMLS) is a secure, web-based licensing system that allows companies and individuals to apply for, maintain, and renew licenses in one or more states through a single record. The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators created NMLS, and it is currently owned and operated by a wholly-owned subsidiary of CSBS.

The Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) was passed by Congress in 2008, following the U.S. housing crisis. In order to better regulate the industry, the SAFE Act required NMLS registration of residential mortgage loan originators. Since the inception of NMLS, the registry has expanded to include other industries outside of the residential mortgage market as a means to maintain a single record for commonly regulated financial services industries.

In Texas, Section 180.052 (Enrollment or Registration with Nationwide Mortgage Licensing System and Registry), Finance Code, instructs state regulators to require those entities that are covered by the SAFE Act to register with NMLS. The Office of Consumer Credit Commissioner (OCCC) is one of these state regulators, as it regulates certain residential mortgage loan originators who fall under the SAFE Act's provisions. In addition to these mortgage industry licensees, the OCCC regulates a number of other financial service providers including property tax lenders, credit access businesses, and pawn shops. The OCCC would like to expand its authority to require NMLS registration for additional industries within its jurisdiction that the OCCC believes would be good candidates for registration on a nationwide system.

Authorizing the OCCC to use NMLS to manage the agency's non-depository, financial services licensees will provide a number of benefits to the state, including increased efficiencies for the industry and the agency, improved supervision of the industry to better protect consumers and level the playing field for businesses that comply with state regulations, and the prevention of federal regulatory encroachment.

C.S.S.B. 232 adds a new section to Chapter 14, Finance Code, which grants the consumer credit commissioner (commissioner) authority to require licensees to utilize NMLS for licensing and registration activities. Per this change, the commissioner could use NMLS to obtain information including criminal history records and administrative, civil, and criminal findings by a governmental jurisdiction.

C.S.S.B. 232 amends current law relating to the use of the Nationwide Mortgage Licensing System and Registry in connection with the regulatory authority of the consumer credit commissioner.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the consumer credit commissioner in SECTION 1 (Section 14.109, Finance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 14, Finance Code, by adding Section 14.109, as follows:

Sec. 14.109. USE OF THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY. (a) Defines, in this section, "Nationwide Mortgage Licensing System and Registry" or "nationwide registry."

(b) Provides that this section applies only to this chapter and Chapter 342 (Consumer Loans), 348 (Motor Vehicle Installment Sales), 351 (Property Tax Lenders), 393 (Credit Services Organizations), or 394 (Debtor Assistance).

(c) Authorizes the consumer credit commissioner (commissioner) to require that a person submit through the Nationwide Mortgage Licensing System and Registry in the form and manner prescribed by the commissioner and acceptable to the registry any information or document or payment of a fee required to be submitted to the commissioner under a chapter to which this section applies or rules adopted under this chapter.

(d) Authorizes the commissioner to use the nationwide registry as a channeling agent for obtaining information required for licensing or registration purposes under a chapter listed in Subsection (b) (2) (relating to the list of chapters applicable to Subsection (b)) or rules adopted under this chapter, including:

(1) criminal history record information from the Federal Bureau of Investigation, the United States Department of Justice, or any other agency or entity at the commissioner's discretion;

(2) information related to any administrative, civil, or criminal findings by a governmental jurisdiction; and

(3) information requested by the commissioner under Section 342.101(a)(4) (relating to requirements set forth by the commissioner for a consumer loan application), 348.502(a)(3) (relating to requirements set forth by the commissioner for an application for motor vehicle installment sales), 351.101(a)(4) (relating to requirements set forth by the commissioner for an application for property tax lenders), 393.604(a)(5) (relating to requirements set forth by the commissioner for an application for a credit service organization's license application), and 394.204(c)(8) (relating to requirements set forth by the commissioner for an application for registration of a debt management service).

SECTION 2. Effective date: September 1, 2013.