

AN ACT

relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. ACCOUNTING STATEMENTS FOR CERTAIN HOME LOANS REQUIRED

Sec. 397.001. DEFINITION. In this chapter, "mortgage servicer" has the meaning assigned by Section 51.0001, Property Code.

Sec. 397.002. APPLICABILITY OF CHAPTER. This chapter applies only to a loan secured by a first or subordinate lien on residential real property that is not:

(1) a federally related mortgage loan, as defined by 12 U.S.C. Section 2602;

(2) a loan that is made by a credit union regulated by the Credit Union Department;

(3) a loan that is primarily for business, commercial, or agricultural purposes, or for temporary financing, such as a construction loan, as referred to under 12 U.S.C. Section 2602; or

(4) a loan that is directly financed and serviced by a relative within the second degree of consanguinity or affinity of the borrower.

1 Sec. 397.003. ANNUAL ACCOUNTING STATEMENT. (a) A mortgage
2 servicer shall provide to the borrower an annual statement in
3 January of each year for the term of the loan. The statement must be
4 provided by mail, postmarked on or before January 31, and sent to
5 the borrower at the borrower's last known address.

6 (b) The statement required by Subsection (a) must clearly
7 and conspicuously state the following information:

8 (1) the amount of each payment that was received by the
9 mortgage servicer as payment toward the loan during the preceding
10 calendar year;

11 (2) how each payment described by Subdivision (1) was
12 applied to the borrower's account, including information showing
13 the amount of each payment that was applied to:

14 (A) the borrower's principal obligation under
15 the loan;

16 (B) the interest charged on the loan;

17 (C) any escrow account associated with the loan;

18 and

19 (D) any fee or other charge assessed against the
20 borrower during the preceding calendar year; and

21 (3) the outstanding balance of the borrower's
22 principal obligation under the loan.

23 Sec. 397.004. RECOURSE OF BORROWER FOR MORTGAGE SERVICER'S
24 FAILURE TO TIMELY PROVIDE STATEMENT; LIABILITY OF MORTGAGE
25 SERVICER. (a) If a borrower does not receive an annual statement
26 within the time prescribed by Section 397.003(a), the borrower may
27 request the statement from the mortgage servicer by sending a

1 request to that effect to the mortgage servicer by certified mail,
2 return receipt requested.

3 (b) Except as provided by Subsection (c), if, after
4 receiving a request under Subsection (a), the mortgage servicer
5 fails to provide the statement to the borrower on or before the 25th
6 day after the date the mortgage servicer receives the request:

7 (1) the borrower is not liable for any fees,
8 penalties, or late charges, or any other amounts except for any
9 principal and interest that may be due for the preceding calendar
10 year; and

11 (2) if the mortgagee is not the mortgage servicer, the
12 mortgage servicer is liable for paying the mortgagee:

13 (A) any amount for which the borrower is no
14 longer liable under Subdivision (1); and

15 (B) any fee or other charge assessed against the
16 borrower by the mortgagee as a result of, or consequential damages
17 arising out of, the mortgage servicer's failure to comply with this
18 section.

19 (c) Subsection (b) does not apply if, before the borrower
20 requests an annual statement under this section, the mortgage
21 servicer sends a default notice to the borrower at the borrower's
22 last known address by certified mail, return receipt requested.

23 SECTION 2. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 830 passed the Senate on May 10, 2017, by the following vote: Yeas 24, Nays 5, one present not voting; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 25, Nays 5, one present not voting.

Secretary of the Senate

I hereby certify that S.B. No. 830 passed the House, with amendment, on May 23, 2017, by the following vote: Yeas 96, Nays 51, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor