

BILL ANALYSIS

Senate Research Center
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S.B. 618
By: Shapleigh
Business & Commerce
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 618 protects vulnerable borrowers in Texas by requiring clear and specific disclosures in high cost home loans. S.B. 618 requires lenders, in connection with certain home loans, to provide borrower's with certain disclosures relating to credit counseling and information resources, along with the fees to be paid by the borrower. Also, if the total amount of fees disclosed changes, S.B. 618 requires lenders to provide written notice to borrowers. Additionally, S.B. 618 requires that a loan negotiated primarily in Spanish be accompanied by a Spanish translation of the required information. The bill also provides penalties for failing to provide the required disclosures.

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 Subchapter B, Chapter 343, Finance Code, by adding Sections 343.102 and 343.103, as follows:

Sec. 343.102. DISCLOSURE IN CONNECTION WITH CERTAIN HOME LOANS.

(a) Requires a lender, not later than 48 hours before the date of closing, to provide certain documents and information to the borrower for a home loan with an interest rate of 12 percent or greater a year.

(b) Requires a disclosure of fees under Subsection (a)(4) (statement of loan fees to be paid by the borrower) to be in a form substantially similar to the documents that will be used for the closing.

(c) Requires the lender, ~~f~~, before closing, the total amount of fees disclosed under Subsection (a)(4) changes by an amount that exceeds the lesser of \$400 or one-half percent of the amount of the loan, to provide the borrower a written notice of the revised amount. Prohibits the loan from being closed before 48 hours after the date of the notice provided under this subsection.

(d) Requires the borrower to be provided a Spanish translation of the information required to be provided under this section if the home loan was negotiated primarily in Spanish.

(e) Authorizes the borrower to modify or waive the waiting period provided by this section, if the borrower determines that the loan is needed to meet a personal financial emergency, by providing the lender a dated, written, and signed statement that describes the emergency and specifically modifies or waives the waiting period. Prohibits the statement under this subsection from being on a form provided by the lender or on the lender's behalf.

Sec. 343.103. PENALTIES FOR FAILURE TO PROVIDE DISCLOSURE. Provides that a person who knowingly and wilfully violates Section 343.102 is liable to the aggrieved borrower for the actual damages caused by the violation, punitive damages not to exceed \$10,000 in an action brought by the aggrieved borrower, and court costs.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.