

By: Davis of Dallas

H.B. No. 2106

A BILL TO BE ENTITLED

AN ACT

relating to protections for certain customers of a financial institution.

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

SECTION 1. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 279 to read as follows:

CHAPTER 279. PROTECTIONS FOR CERTAIN CUSTOMERS OF A FINANCIAL INSTITUTION

Sec. 279.001. DEFINITIONS. In this chapter:

(1) "Financial institution" means a bank, savings association, savings bank, person licensed under Chapter 342, credit union, or mortgage lending company maintaining an office, branch, or agency office in this state.

(2) "Mortgage" includes a deed of trust.

Sec. 279.002. APPLICABILITY. This chapter applies to the spouse of a person who is the mortgagor on a mortgage relating to a loan made by a financial institution.

Sec. 279.003. DUTIES OF A FINANCIAL INSTITUTION. Notwithstanding any other law, a financial institution shall:

(1) file, on the request of and on behalf of a spouse who has presented legitimate proof of an ownership interest in the secured property, a statement in real property records where any documents related to the mortgage are filed of the spouse's potential claim to interest in the property;

1 (2) notify any spouse before refinancing a loan made
2 by the financial institution that is secured by a residential
3 homestead; and

4 (3) release information regarding a loan to a person
5 who is liable for payment of the loan but whose name does not appear
6 as a debtor on the loan documents.

7 Sec. 279.004. PROHIBITED ACTS. Notwithstanding any other
8 law, a financial institution may not:

9 (1) send any correspondence concerning a request to
10 refinance a loan secured by a residential homestead or an
11 application for a home equity loan to a post office box; or

12 (2) cash a check on a joint checking account at the
13 financial institution unless both parties to the account are
14 present or the signature of the party not present is verified by
15 comparing it to a signature on file with the financial institution,
16 if an account holder has requested that the financial institution
17 not do so.

18 Sec. 279.005. EFFECT OF RESTRAINING ORDER. While a
19 restraining order in connection with a divorce proceeding is in
20 effect, a financial institution may not disburse any assets of the
21 respondent to the restraining order without the consent of the
22 petitioner named in the restraining order.

23 Sec. 279.006. DAMAGES. A person damaged by a violation of
24 this chapter is entitled to:

25 (1) actual damages;

26 (2) reasonable attorney's fees; and

27 (3) court costs.

1 SECTION 2. This Act takes effect September 1, 2005.