

By: Carona

S.B. No. 987

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain depository institutions and mortgage brokers to receive compensation for preparing legal documents in connection with residential mortgages.

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

SECTION 1. Section 83.001, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) This section does not apply to:

(1) an attorney licensed in this state;

(2) a licensed real estate broker or salesperson performing the acts of a real estate broker pursuant to Chapter 1101, Occupations Code; ~~or~~

(3) a person performing acts relating to a transaction for the lease, sale, or transfer of any mineral or mining interest in real property; or

(4) a depository institution and its subsidiaries or affiliates or a mortgage banker that performs an act relating to the documentation of a residential mortgage loan by completing forms:

(A) to assign, release, or modify a lien; or

(B) that comply with the requirements of:

(i) the United States Department of Housing and Urban Development or the United States Department of Veterans Affairs;

1 (ii) the Federal National Mortgage
2 Association, the Federal Home Loan Mortgage Association, or the
3 Government National Mortgage Association; or

4 (iii) Section 341.502, Finance Code.

5 (d) In this section:

6 (1) "Affiliate," "depository institution," and
7 "subsidiary" have the meanings assigned by Section 31.002, Finance
8 Code.

9 (2) "Mortgage banker" has the meaning assigned by
10 Section 157.002, Finance Code.

11 (3) "Residential mortgage loan" means a debt secured
12 by a first lien on residential real property designed principally
13 for occupancy by one to four families that is created by a deed of
14 trust, security deed, or other security instrument. The term does
15 not include:

16 (A) a home equity line of credit under Section
17 50(a)(6), Article XVI, Texas Constitution;

18 (B) a reverse mortgage on a homestead under
19 Section 50(a)(7), Article XVI, Texas Constitution; or

20 (C) a loan for the construction of a new
21 residence.

22 SECTION 2. Section 83.002, Government Code, is amended to
23 read as follows:

24 Sec. 83.002. EXPENSES. This chapter does not prevent an
25 attorney or a person described in Section 83.001(b) from paying
26 secretarial, paralegal, or other ordinary and reasonable expenses
27 necessarily and actually incurred by the attorney for the

1 preparation of legal instruments.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2005.