

By: West, Royce

S.B. No. 1357

A BILL TO BE ENTITLED

AN ACT

relating to disclosure of home mortgage purchases by certain enterprises; providing an administrative penalty.

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

SECTION 1. Subtitle B, Title 4, Finance Code, is amended by adding Chapter 350 to read as follows:

CHAPTER 350. DISCLOSURE OF HOME MORTGAGE PURCHASES BY CERTAIN ENTERPRISES

Sec. 350.001. DEFINITIONS. In this chapter:

(1) "Mortgage" means a debt secured by a first lien on a manufactured home or residential real property designed principally for occupancy by one to four families that is created by a deed of trust, security deed, or other security instrument.

(2) "Public use database" means the government-sponsored enterprises database containing information on mortgage loans purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation that the Department of Housing and Urban Development makes available to the public under 12 U.S.C. Section 4543.

(3) "Regulations" means the regulations under 12 C.F.R. Part 203 issued by the Board of Governors of the Federal Reserve System to implement the home mortgage disclosure requirements of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. Section 2801 et seq.).

1 Sec. 350.002. APPLICABILITY. This chapter only applies to
2 an enterprise as defined by 12 U.S.C. Section 4502.

3 Sec. 350.003. REPORTING REQUIREMENTS. (a) An enterprise
4 shall submit to the finance commission not later than March 1 of
5 each year a report containing information on mortgages:

6 (1) secured by property located in this state;

7 (2) purchased by the enterprise during the previous
8 calendar year; and

9 (3) required to be included in the public use database
10 for the corresponding year.

11 (b) The enterprise shall include in the report, for each
12 mortgage described by Subsection (a):

13 (1) the mortgage data that must be reported by a
14 financial institution under the regulations in effect during the
15 previous year, other than data that the finance commission
16 determines by rule is not relevant to the purposes of this chapter;
17 and

18 (2) any additional information included on the public
19 use database that the finance commission has determined by rule is
20 not redundant to the items required to be provided under
21 Subdivision (1).

22 (c) Any report provided under Subsection (a) must include
23 the name or identification number of the mortgage financing
24 institution that sells a mortgage to an enterprise.

25 Sec. 350.004. EXEMPTIONS FROM REPORTING REQUIREMENTS. (a)
26 The finance commission may adopt rules to exempt an enterprise from
27 reporting information required by Section 350.003(b) on the grounds

1 that the required information cannot be obtained by the enterprise.

2 (b) Before adopting a rule under Subsection (a), the finance
3 commission shall consider:

4 (1) the strong bargaining position of the enterprise
5 in its dealings with loan sellers;

6 (2) the prior experience of the enterprise in
7 obtaining mortgage information from sellers; and

8 (3) the best practices within the mortgage financing
9 industry of collecting and transferring mortgage information.

10 (c) The finance commission shall periodically review any
11 exemption granted to an enterprise. The finance commission shall
12 adopt a policy to apply an exemption only if the enterprise cannot
13 obtain mortgage information even after following the best practices
14 of collecting and transferring mortgage information.

15 Sec. 350.005. AVAILABILITY OF REPORT. The finance
16 commission shall make the report submitted under Section 350.003
17 available to:

18 (1) the Texas Workforce Commission civil rights
19 division for purposes of monitoring and promoting equal credit
20 opportunity, fair lending, and fair housing; and

21 (2) the public at the cost of reproducing the report.

22 Sec. 350.006. ADMINISTRATIVE PENALTY. (a) The commission
23 may impose an administrative penalty on an enterprise that fails to
24 file a report as required by Section 350.003.

25 (b) The amount of the penalty may not exceed \$5,000 and each
26 day a violation continues or occurs is a separate violation for the
27 purpose of imposing a penalty. The amount shall be based on:

1 (1) the seriousness of the violation, including the
2 nature, circumstances, extent, and gravity of the violation;

3 (2) the history of previous violations;

4 (3) the amount necessary to deter a future violation;

5 (4) efforts to correct the violation; and

6 (5) any other matter that justice may require.

7 (c) The enforcement of the penalty may be stayed during the
8 time the order is under judicial review if the person pays the
9 penalty to the clerk of the court or files a supersedeas bond with
10 the court in the amount of the penalty. A person who cannot afford
11 to pay the penalty or file the bond may stay the enforcement by
12 filing an affidavit in the manner required by the Texas Rules of
13 Civil Procedure for a party who cannot afford to file security for
14 costs, subject to the right of the finance commission to contest the
15 affidavit as provided by those rules.

16 SECTION 2. An enterprise shall file the first report with
17 the Finance Commission of Texas as required by Section 350.003,
18 Finance Code, as added by this Act, not later than March 1, 2006.
19 The first report must contain information on mortgages purchased by
20 the enterprise during the 2005 calendar year.

21 SECTION 3. This Act takes effect September 1, 2005.