

## **BILL ANALYSIS**

S.B. 987  
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Financial Institutions  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law does not require loan applicants for complex home loans to receive consumer counseling before the closing date of such a loan. In September, 2006, the Texas Department of Housing and Community Affairs reported that Texas has the nation's sixth-highest home foreclosure rate. Although the state has taken proactive steps to protect homeowners by outlawing certain practices in home equity loans, there are virtually no protections for home buyers against complex, or "exotic," home loans. Such loans are very risky because they have variable interest rates, prepayment penalties, allow for payment of interest only, negatively amortize, or provide for a scheduled payment that is twice as large as the average of earlier scheduled monthly payments.

S.B. 987 requires loan applicants for complex home loans to receive consumer counseling before the closing date of such a loan to provide the consumer the chance to make an informed decision of the consequences of such complex loans and to attempt to lower foreclosure rates in this state.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission in SECTION 1 of this bill.

### **ANALYSIS**

S.B. 987 amends Subchapter B, Chapter 343, Finance Code, by adding Section 343.105, requiring counseling before closing complex loan. S.B. 987 defines a "complex loan." S.B. 987 prohibits a lender from making a complex loan unless the loan application presents to the lender a certificate of completion of counseling signed by the counselor and the loan applicant. The certificate establishes that, not later than the 10th day before the date of dosing, the loan applicant received counseling in person or by phone from a housing counseling agency approved by the United States Department of Housing and Urban Development or from an attorney licensed to practice law in this state regarding the advisability of a complex loan and the availability of financial alternatives, and includes a signed statement by the counselor that the counselor has training or experience in home loans.

S.B. 987 requires the lender or broker to provide to the loan applicant and counselor, before the applicant receives counseling as required by Subsection (b), a written notice on a form prescribed by the Finance Commission under Subsection (e) that states the proposed terms of the loan, that the proposed loan is a complex loan, and that financial alternatives are available. S.B. 987 requires the lender to maintain in the lender's records any certificate of completion of counseling provided to the lender under Subsection (b). S.B. 987 requires the Finance Commission to prescribe the form and content of the certificate of completion of counseling required by Subsection (b) and the notice required by Subsection (c).

S.B. 987 states that this section does not apply to an interim construction loan with a maturity of less than 18 months. S.B. 987 provides that an attorney who counsels a loan applicant under Subsection (b) may not represent or advise another party to the loan. A violation of this section by a lender does not invalidate or impair the lien or security interest for the complex loan. S.B. 987 allows the Finance Commission by rule to adopt a reasonable fee that a person who provides counseling to a loan applicant under this section may charge the loan applicant. The change in

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law made by this Act applies only to a loan closed on or after the effective date of this Act. A loan closed before the effective date of this Act is covered by the law in effect on the date the loan was closed, and the former law is continued in effect for that purpose.

**EFFECTIVE DATE**

September 1, 2007.