

By: Lucio

S.B. No. 987

A BILL TO BE ENTITLED

AN ACT

relating to requiring counseling before closing certain complex loans.

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

SECTION 1. Subchapter B, Chapter 343, Finance Code, is amended by adding Section 343.105 to read as follows:

Sec. 343.105. COUNSELING REQUIRED BEFORE CLOSING COMPLEX LOAN. (a) In this section, "complex loan" means a loan:

(1) that has a principal amount of less than \$125,000;

(2) that is a home loan and that is or will be secured by a first lien on the principal residence of the borrower;

(3) for which the ratio of the aggregate of the principal balance of all loans secured by the property to the value of the property on the date of closing is at least 90 percent;

(4) that is made to a borrower who has a credit score of not more than 650; and

(5) that contains:

(A) a variable interest rate and has an initial interest rate that is significantly lower than the fully indexed rate at the time the loan is closed, as determined by the finance commission; or

(B) a provision that permits periodic payments that are less than the amount of accrued interest on the scheduled payment date.

1        (b) A lender may not make a complex loan unless the loan  
2 applicant presents to the lender a certificate of completion of  
3 counseling signed by the counselor and the loan applicant that:

4            (1) establishes that, not later than the 10th day  
5 before the date of closing, the loan applicant received counseling  
6 in person or by phone from a housing counseling agency approved by  
7 the United States Department of Housing and Urban Development or  
8 from an attorney licensed to practice law in this state regarding  
9 the advisability of a complex loan and the availability of  
10 financial alternatives; and

11           (2) includes a signed statement by the counselor that  
12 the counselor has training or experience in home loans.

13        (c) The lender or broker shall provide to the loan applicant  
14 and counselor, before the applicant receives counseling as required  
15 by Subsection (b), a written notice on a form prescribed by the  
16 finance commission under Subsection (e) that states:

17           (1) the proposed terms of the loan;

18           (2) that the proposed loan is a complex loan; and

19           (3) that financial alternatives may be available.

20        (d) The lender shall maintain in the lender's records any  
21 certificate of completion of counseling provided to the lender  
22 under Subsection (b).

23        (e) The finance commission shall prescribe the form and  
24 content of the:

25           (1) certificate of completion of counseling required  
26 by Subsection (b); and

27           (2) notice required by Subsection (c).

1        (f) This section does not apply to an interim construction  
2 loan with a maturity of less than 18 months.

3        (g) An attorney who counsels a loan applicant under  
4 Subsection (b) may not represent or advise another party to the  
5 loan.

6        (h) A violation of this section by a lender does not  
7 invalidate or impair the lien or security interest for the complex  
8 loan.

9        (i) The finance commission by rule may adopt a reasonable  
10 fee that a person who provides counseling to a loan applicant under  
11 this section may charge the loan applicant.

12        SECTION 2. The change in law made by this Act applies only  
13 to a loan closed on or after the effective date of this Act. A loan  
14 closed before the effective date of this Act is covered by the law  
15 in effect on the date the loan was closed, and the former law is  
16 continued in effect for that purpose.

17        SECTION 3. This Act takes effect September 1, 2007.