

By: Wentworth

S.B. No. 1308

A BILL TO BE ENTITLED

AN ACT

relating to the closing of a residential mortgage loan transaction and liability of certain persons involved in the appraisal process.

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

SECTION 1. Subchapter A, Chapter 2652, Insurance Code, is amended by adding Section 2652.007 to read as follows:

Sec. 2652.007. COMPLIANCE WITH APPROVED SETTLEMENT STATEMENT. (a) In this section:

(1) "Approved settlement statement" with respect to a residential mortgage loan means the HUD-1 settlement statement or other form of settlement statement authorized by the Real Estate Settlement Procedures Act of 1974 (Pub. L. No. 93-533) that is properly completed by an escrow officer and approved by the mortgage lender before loan closing.

(2) "Mortgage lender" means the secured creditor or creditors named in the residential mortgage loan documents who provided the residential mortgage loan funds used to close the loan.

(3) "Residential mortgage loan" means a loan or agreement to extend credit made to a person and secured by a mortgage or lien on residential real property, including a refinancing or renewal of a loan secured by residential real property.

(4) "Residential real property" means a single-family

1 house, townhouse, duplex, triplex, or quadruplex, or a condominium
2 or cooperative unit in a multifamily structure used or intended to
3 be used as a dwelling or for residential purposes.

4 (b) An escrow officer may not close a residential real
5 property transaction involving a residential mortgage loan and may
6 not disburse funds from the trust fund account for the transaction
7 except in compliance with an approved settlement statement
8 itemizing all charges to be imposed on, and adjustments to be given,
9 the parties to the transaction and the name of the recipient of each
10 of those charges and adjustments.

11 (c) An escrow agent may not be held liable under this
12 section except for a willful or grossly negligent violation of this
13 section.

14 (d) The department shall adopt rules necessary or
15 appropriate to implement this section.

16 SECTION 2. Subchapter I, Chapter 1103, Occupations Code, is
17 amended by adding Section 1103.406 to read as follows:

18 Sec. 1103.406. LIABILITY OF APPRAISER. A person who holds a
19 license, certificate, or approval issued under this chapter and
20 who, in connection with a residential mortgage loan, wilfully or
21 with gross negligence produces or endorses an appraisal that fails
22 to comply with the professional standards prescribed by Section
23 1103.405 and expresses a final opinion of value that is materially
24 inaccurate is liable for all losses, including attorney's fees and
25 costs of collection, incurred in reliance on the appraisal by any
26 person for whose benefit the appraisal was prepared and by any
27 person the appraiser knew or could reasonably have foreseen would

1 use and rely on the appraisal. In this section, "residential
2 mortgage loan" means a loan or agreement to extend credit made to a
3 person and secured by a mortgage or lien on residential real
4 property, including a refinancing or renewal of a loan secured by
5 residential real property.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2007.