

1-1 By: Wentworth S.B. No. 1308
1-2 (In the Senate - Filed March 7, 2007; March 19, 2007, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 May 4, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 2; May 4, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1308 By: Harris

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the closing of a residential mortgage loan transaction
1-11 and liability of certain persons involved in the appraisal process.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 2652, Insurance Code, is
1-14 amended by adding Section 2652.007 to read as follows:

1-15 Sec. 2652.007. COMPLIANCE WITH APPROVED SETTLEMENT
1-16 STATEMENT. (a) In this section:

1-17 (1) "Approved settlement statement" with respect to a
1-18 residential mortgage loan means the HUD-1 settlement statement or
1-19 other form of settlement statement authorized by the Real Estate
1-20 Settlement Procedures Act of 1974 (Pub. L. No. 93-533) that is
1-21 properly completed by an escrow officer and approved by the
1-22 mortgage lender before loan closing.

1-23 (2) "Mortgage lender" means the secured creditor or
1-24 creditors named in the residential mortgage loan documents and the
1-25 successors or assigns of the creditor or creditors.

1-26 (3) "Residential mortgage loan" means a loan or
1-27 agreement to extend credit made to a person and secured by a
1-28 mortgage or lien on residential real property, including a
1-29 refinancing or renewal of a loan secured by residential real
1-30 property.

1-31 (4) "Residential real property" means a single-family
1-32 house, townhouse, duplex, triplex, or quadruplex, or a condominium
1-33 or cooperative unit in a multifamily structure used or intended to
1-34 be used as a dwelling or for residential purposes.

1-35 (b) An escrow officer may not close a residential real
1-36 property transaction involving a residential mortgage loan and may
1-37 not disburse funds from the trust fund account for the transaction
1-38 except in strict compliance with an approved settlement statement
1-39 itemizing all charges to be imposed on, and adjustments to be given,
1-40 the parties to the transaction and the name of the recipient of each
1-41 of those charges and adjustments.

1-42 (c) The department shall adopt rules necessary or
1-43 appropriate to implement this section.

1-44 SECTION 2. Subchapter I, Chapter 1103, Occupations Code, is
1-45 amended by adding Section 1103.406 to read as follows:

1-46 Sec. 1103.406. LIABILITY OF APPRAISER. A person who holds a
1-47 license, certificate, or approval issued under this chapter and who
1-48 wilfully or negligently produces or endorses an appraisal that
1-49 fails to comply with the professional standards prescribed by
1-50 Section 1103.405 and expresses a final opinion of value that is
1-51 materially inaccurate is liable for all losses, including
1-52 attorney's fees and costs of collection, incurred in reliance on
1-53 the appraisal by any person for whose benefit the appraisal was
1-54 prepared and by any person the appraiser knew or could reasonably
1-55 have foreseen would use and rely on the appraisal.

1-56 SECTION 3. This Act takes effect immediately if it receives
1-57 a vote of two-thirds of all the members elected to each house, as
1-58 provided by Section 39, Article III, Texas Constitution. If this
1-59 Act does not receive the vote necessary for immediate effect, this
1-60 Act takes effect September 1, 2007.

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