

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Solomons, Anchia, Flynn, McCall, Orr,  
et al.

H.B. No. 716

A BILL TO BE ENTITLED

AN ACT

relating to mortgage fraud; providing criminal penalties.

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. NOTICE OF PENALTIES FOR MAKING FALSE OR MISLEADING WRITTEN STATEMENT. (a) A lender, mortgage banker, or licensed mortgage broker shall provide to each applicant for a home loan a written notice at closing.

(b) The notice must:

(1) be provided on a separate document;

(2) be in at least 14-point type; and

(3) have the following or substantially similar

language:

"Warning: Intentionally or knowingly making a materially false or misleading written statement to obtain property or credit, including a mortgage loan, is a violation of Section 32.32, Texas Penal Code, and, depending on the amount of the loan or value of the property, is punishable by imprisonment for a term of 2 years to 99 years and a fine not to exceed \$10,000.

"I/we, the undersigned home loan applicant(s), represent that I/we have received, read, and understand this notice of penalties for making a materially false or misleading written

1 statement to obtain a home loan.

2 "I/we represent that all statements and representations  
3 contained in my/our written home loan application, including  
4 statements or representations regarding my/our identity,  
5 employment, annual income, and intent to occupy the  
6 residential real property secured by the home loan, are true  
7 and correct as of the date of loan closing."

8 (c) On receipt of the notice, the loan applicant shall  
9 verify the information and execute the notice.

10 (d) The failure of a lender, mortgage banker, or licensed  
11 mortgage broker to provide a notice complying with this section to  
12 each applicant for a home loan does not affect the validity or  
13 enforceability of the home loan by any holder of the loan.

14 SECTION 2. Subchapter B, Chapter 402, Government Code, is  
15 amended by adding Sections 402.031 and 402.032 to read as follows:

16 Sec. 402.031. REPORTING FRAUDULENT ACTIVITIES. (a) In  
17 this section:

18 (1) "Authorized governmental agency" means:

19 (A) the attorney general;

20 (B) a local or state law enforcement agency of  
21 this state or a federal law enforcement agency;

22 (C) a prosecuting attorney of the United States  
23 or of a county or judicial district of this state; or

24 (D) the Department of Public Safety, the Texas  
25 Department of Insurance, the Office of Consumer Credit  
26 Commissioner, the Texas Department of Banking, the credit union  
27 department, the Department of Savings and Mortgage Lending, the

1 Texas Real Estate Commission, or the Texas Appraiser Licensing and  
2 Certification Board.

3 (2) "Fraudulent activity" means any act that  
4 constitutes a violation of a penal law and is part of an attempt or  
5 scheme to defraud any person.

6 (b) If a person determines or reasonably suspects that  
7 fraudulent activity has been committed or is about to be committed,  
8 the person shall report the information to an authorized  
9 governmental agency. If a person reports the information to the  
10 attorney general, the attorney general shall notify each agency  
11 with representation on the residential mortgage fraud task force  
12 under Section 402.032. If a financial institution or person  
13 voluntarily or pursuant to this section reports fraudulent activity  
14 to an authorized governmental agency, the financial institution or  
15 person may not notify any person involved in the fraudulent  
16 activity that the fraudulent activity has been reported, and the  
17 authorized governmental agency who has any knowledge that such  
18 report was made shall not disclose to any person involved in the  
19 fraudulent activity that the fraudulent activity has been reported.  
20 Any financial institution or person that makes a voluntary report  
21 of any possible violation of law or regulation to an authorized  
22 governmental agency shall not be liable to any person under any law  
23 or regulation of the state or the United States for such report.

24 (c) This section does not eliminate or diminish any common  
25 law or statutory privilege or immunity.

26 Sec. 402.032. RESIDENTIAL MORTGAGE FRAUD TASK FORCE. (a)  
27 In this section, "task force" means the residential mortgage fraud

1 task force.

2 (b) The office of the attorney general shall establish the  
3 task force to form a strategic partnership between state, federal,  
4 and local law enforcement agencies to better enable law enforcement  
5 and state agencies to take a proactive stance towards tracking and  
6 prosecuting mortgage fraud and the perpetrators of mortgage fraud  
7 statewide.

8 (c) The task force consists of the following persons or  
9 their appointees:

- 10 (1) the attorney general;  
11 (2) the consumer credit commissioner;  
12 (3) the banking commissioner;  
13 (4) the credit union commissioner;  
14 (5) the commissioner of insurance;  
15 (6) the savings and mortgage lending commissioner;  
16 (7) the presiding officer of the Texas Real Estate  
17 Commission; and  
18 (8) the presiding officer of the Texas Appraiser  
19 Licensing and Certification Board.

20 (d) The task force may request assistance from the Federal  
21 Bureau of Investigation, United States Secret Service, United  
22 States Department of Justice, United States Department of Homeland  
23 Security, Internal Revenue Service, and the United States Postal  
24 Service.

25 (e) The task force shall focus its efforts in:

- 26 (1) sharing information and resources; and  
27 (2) successfully enforcing administrative and

1 criminal actions against perpetrators of mortgage fraud.

2 (f) The agencies of the persons listed in Subsection (c) may  
3 share confidential information or information to which access is  
4 otherwise restricted by law with one or more of the other agencies  
5 of the persons listed in Subsection (c) for investigative purposes  
6 described by Subsection (b). Except as provided by this  
7 subsection, confidential information that is shared under this  
8 subsection remains confidential and legal restrictions on access to  
9 the information apply.

10 (g) The task force shall submit to the governor, lieutenant  
11 governor, and speaker of the house of representatives an annual  
12 report on the progress of each agency of the persons listed in  
13 Subsection (c) in accomplishing the purposes described by  
14 Subsection (b).

15 (h) The office of the attorney general shall oversee the  
16 administration of the task force. The attorney general shall  
17 provide the necessary staff and facilities to assist the task force  
18 in performing its duties.

19 (i) The attorney general may solicit and accept gifts,  
20 grants, and donations of money, services, or property on behalf of  
21 the state for disbursement to any state agency or local law  
22 enforcement agency to aid the task force in the investigation and  
23 prosecution of mortgage fraud in this state.

24 SECTION 3. Section 555.051(a), Government Code, is amended  
25 to read as follows:

26 (a) This section applies only to information held by or for  
27 the office of the attorney general, the Texas Department of

1 Insurance, the Texas State Board of Public Accountancy, the Public  
2 Utility Commission of Texas, [~~or~~] the State Securities Board, the  
3 Department of Savings and Mortgage Lending, the Texas Real Estate  
4 Commission, the Texas Appraiser Licensing and Certification Board,  
5 the Texas Department of Banking, the credit union department, or  
6 the Office of Consumer Credit Commissioner that relates to the  
7 possible commission of corporate fraud or mortgage fraud by a  
8 person who is licensed or otherwise regulated by any of those state  
9 agencies. In this subsection, "corporate fraud" means a violation  
10 of state or federal law or rules relating to fraud committed by a  
11 corporation, limited liability company, or registered limited  
12 liability partnership or an officer, director, or partner of those  
13 entities while acting in a representative capacity.

14 SECTION 4. Section 32.32, Penal Code, is amended by  
15 amending Subsections (a) and (b) and adding Subsection (d) to read  
16 as follows:

17 (a) For purposes of this section, "credit" includes:

18 (1) a loan of money;

19 (2) furnishing property or service on credit;

20 (3) extending the due date of an obligation;

21 (4) comaking, endorsing, or guaranteeing a note or  
22 other instrument for obtaining credit;

23 (5) a line or letter of credit; [~~and~~]

24 (6) a credit card, as defined in Section 32.31 (Credit  
25 Card or Debit Card Abuse); and

26 (7) a mortgage loan.

27 (b) A person commits an offense if he intentionally or

1 knowingly makes a materially false or misleading written statement  
2 to obtain property or credit, including a mortgage loan [~~for~~  
3 ~~himself or another~~].

4 (d) The following agencies shall assist a prosecuting  
5 attorney of the United States or of a county or judicial district of  
6 this state, a county or state law enforcement agency of this state,  
7 or a federal law enforcement agency in the investigation of an  
8 offense under this section involving a mortgage loan:

- 9 (1) the office of the attorney general;  
10 (2) the Department of Public Safety;  
11 (3) the Texas Department of Insurance;  
12 (4) the Office of Consumer Credit Commissioner;  
13 (5) the Texas Department of Banking;  
14 (6) the credit union department;  
15 (7) the Department of Savings and Mortgage Lending;  
16 (8) the Texas Real Estate Commission; and  
17 (9) the Texas Appraiser Licensing and Certification  
18 Board.

19 SECTION 5. Article 12.01, Code of Criminal Procedure, is  
20 amended to read as follows:

21 Art. 12.01. FELONIES. Except as provided in Article 12.03,  
22 felony indictments may be presented within these limits, and not  
23 afterward:

- 24 (1) no limitation:  
25 (A) murder and manslaughter;  
26 (B) sexual assault, if during the investigation  
27 of the offense biological matter is collected and subjected to

1 forensic DNA testing and the testing results show that the matter  
2 does not match the victim or any other person whose identity is  
3 readily ascertained; or

4 (C) an offense involving leaving the scene of an  
5 accident under Section 550.021, Transportation Code, if the  
6 accident resulted in the death of a person;

7 (2) ten years from the date of the commission of the  
8 offense:

9 (A) theft of any estate, real, personal or mixed,  
10 by an executor, administrator, guardian or trustee, with intent to  
11 defraud any creditor, heir, legatee, ward, distributee,  
12 beneficiary or settlor of a trust interested in such estate;

13 (B) theft by a public servant of government  
14 property over which he exercises control in his official capacity;

15 (C) forgery or the uttering, using or passing of  
16 forged instruments;

17 (D) injury to a child, elderly individual, or  
18 disabled individual punishable as a felony of the first degree  
19 under Section 22.04, Penal Code;

20 (E) sexual assault, except as provided by  
21 Subdivision (1) or (5); or

22 (F) arson;

23 (3) seven years from the date of the commission of the  
24 offense:

25 (A) misapplication of fiduciary property or  
26 property of a financial institution;

27 (B) securing execution of document by deception;



1 [~~or~~]

2 (C) a violation under Sections 162.403(22)-(39),  
3 Tax Code;

4 (D) false statement to obtain property or credit;

5 or

6 (E) money laundering;

7 (4) five years from the date of the commission of the  
8 offense:

9 (A) theft, burglary, robbery;

10 (B) kidnapping;

11 (C) injury to a child, elderly individual, or  
12 disabled individual that is not punishable as a felony of the first  
13 degree under Section 22.04, Penal Code;

14 (D) abandoning or endangering a child; or

15 (E) insurance fraud;

16 (5) ten years from the 18th birthday of the victim of  
17 the offense:

18 (A) indecency with a child under Section  
19 21.11(a)(1) or (2), Penal Code; or

20 (B) except as provided by Subdivision (1), sexual  
21 assault under Section 22.011(a)(2), Penal Code, or aggravated  
22 sexual assault under Section 22.021(a)(1)(B), Penal Code; or

23 (6) three years from the date of the commission of the  
24 offense: all other felonies.

25 SECTION 6. The change in law made by this Act to Article  
26 12.01, Code of Criminal Procedure, does not apply to an offense if  
27 the prosecution of that offense became barred by limitation before

1 the effective date of this Act. The prosecution of that offense  
2 remains barred as if this Act had not taken effect.

3 SECTION 7. To the extent of a conflict, this Act prevails  
4 over any other Act of the 80th Legislature, Regular Session, 2007,  
5 regardless of the relative dates of enactment.

6 SECTION 8. This Act takes effect September 1, 2007.

ADOPTED

MAY 09 2007

*Leta Law*  
Secretary of the Senate

Solomans *Avent*

By: \_\_\_\_\_

H.B. No. 716

Substitute the following for ~~H.B. No. 716~~ :

By: *Avent*

C.S. ~~H.B. No. 716~~

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(b) The notice must:

(1) be provided on a separate document;

(2) be in at least 14-point type; and

(3) have the following or substantially similar

language:

"Warning: Intentionally or knowingly making a materially false or misleading written statement to obtain property or credit, including a mortgage loan, is a violation of Section 32.32, Texas Penal Code, and, depending on the amount of the loan or value of the property, is punishable by imprisonment for a term of 2 years to 99 years and a fine not to exceed \$10,000.

"I/we, the undersigned home loan applicant(s), represent that I/we have received, read, and understand this notice of penalties for making a materially false or misleading written

1 statement to obtain a home loan.

2 "I/we represent that all statements and representations  
3 contained in my/our written home loan application, including  
4 statements or representations regarding my/our identity,  
5 employment, annual income, and intent to occupy the  
6 residential real property secured by the home loan, are true  
7 and correct as of the date of loan closing."

8 (c) On receipt of the notice, the loan applicant shall  
9 verify the information and execute the notice.

10 (d) The failure of a lender, mortgage banker, or licensed  
11 mortgage broker to provide a notice complying with this section to  
12 each applicant for a home loan does not affect the validity or  
13 enforceability of the home loan by any holder of the loan.

14 SECTION 2. Subchapter B, Chapter 402, Government Code, is  
15 amended by adding Sections 402.031 and 402.032 to read as follows:

16 Sec. 402.031. REPORTING FRAUDULENT ACTIVITIES. (a) In  
17 this section:

18 (1) "Authorized governmental agency" means:

19 (A) the attorney general;

20 (B) a local or state law enforcement agency of  
21 this state or a federal law enforcement agency;

22 (C) a prosecuting attorney of the United States  
23 or of a county or judicial district of this state; or

24 (D) the Department of Public Safety, the Texas  
25 Department of Insurance, the Office of Consumer Credit  
26 Commissioner, the Texas Department of Banking, the credit union  
27 department, the Department of Savings and Mortgage Lending, the

1 Texas Real Estate Commission, or the Texas Appraiser Licensing and  
2 Certification Board.

3 (2) "Fraudulent activity" means any act that  
4 constitutes a violation of a penal law and is part of an attempt or  
5 scheme to defraud any person.

6 (b) If a person determines or reasonably suspects that  
7 fraudulent activity has been committed or is about to be committed,  
8 the person shall report the information to an authorized  
9 governmental agency. If a person reports the information to the  
10 attorney general, the attorney general shall notify each agency  
11 with representation on the residential mortgage fraud task force  
12 under Section 402.032. If a financial institution or person  
13 voluntarily or pursuant to this section reports fraudulent activity  
14 to an authorized governmental agency, the financial institution or  
15 person may not notify any person involved in the fraudulent  
16 activity that the fraudulent activity has been reported, and the  
17 authorized governmental agency who has any knowledge that such  
18 report was made shall not disclose to any person involved in the  
19 fraudulent activity that the fraudulent activity has been reported.  
20 Any financial institution or person that makes a voluntary report  
21 of any possible violation of law or regulation to an authorized  
22 governmental agency shall not be liable to any person under any law  
23 or regulation of the state or the United States for such report.

24 (c) This section does not eliminate or diminish any common  
25 law or statutory privilege or immunity.

26 Sec. 402.032. RESIDENTIAL MORTGAGE FRAUD TASK FORCE. (a)  
27 In this section, "task force" means the residential mortgage fraud

1 task force.

2 (b) The office of the attorney general shall establish the  
3 task force to form a strategic partnership between state, federal,  
4 and local law enforcement agencies to better enable law enforcement  
5 and state agencies to take a proactive stance towards tracking and  
6 prosecuting mortgage fraud and the perpetrators of mortgage fraud  
7 statewide.

8 (c) The task force consists of the following persons or  
9 their appointees:

- 10 (1) the attorney general;  
11 (2) the consumer credit commissioner;  
12 (3) the banking commissioner;  
13 (4) the credit union commissioner;  
14 (5) the commissioner of insurance;  
15 (6) the savings and mortgage lending commissioner;  
16 (7) the presiding officer of the Texas Real Estate  
17 Commission; and  
18 (8) the presiding officer of the Texas Appraiser  
19 Licensing and Certification Board.

20 (d) The task force may request assistance from the Federal  
21 Bureau of Investigation, United States Secret Service, United  
22 States Department of Justice, United States Department of Homeland  
23 Security, Internal Revenue Service, and the United States Postal  
24 Service.

25 (e) The task force shall focus its efforts in:

- 26 (1) sharing information and resources; and  
27 (2) successfully enforcing administrative and

1 criminal actions against perpetrators of mortgage fraud.

2 (f) The agencies of the persons listed in Subsection (c) may  
3 share confidential information or information to which access is  
4 otherwise restricted by law with one or more of the other agencies  
5 of the persons listed in Subsection (c) for investigative purposes  
6 described by Subsection (b). Except as provided by this  
7 subsection, confidential information that is shared under this  
8 subsection remains confidential and legal restrictions on access to  
9 the information apply.

10 (g) The task force shall submit to the governor, lieutenant  
11 governor, and speaker of the house of representatives an annual  
12 report on the progress of each agency of the persons listed in  
13 Subsection (c) in accomplishing the purposes described by  
14 Subsection (b).

15 (h) The office of the attorney general shall oversee the  
16 administration of the task force. The attorney general shall  
17 provide the necessary staff and facilities to assist the task force  
18 in performing its duties.

19 (i) The attorney general may solicit and accept gifts,  
20 grants, and donations of money, services, or property on behalf of  
21 the state for disbursement to any state agency or local law  
22 enforcement agency to aid the task force in the investigation and  
23 prosecution of mortgage fraud in this state.

24 SECTION 3. Subchapter F, Chapter 411, Government Code, is  
25 amended by adding Section 411.1407 to read as follows:

26 Sec. 411.1407. ACCESS TO CRIMINAL HISTORY RECORD  
27 INFORMATION: CREDIT UNION DEPARTMENT. (a) The credit union

1 commissioner is entitled to obtain from the department criminal  
2 history record information maintained by the department that  
3 relates to a person who is:

4 (1) an individual who applies to incorporate a credit  
5 union under Subtitle D, Title 3, Finance Code;

6 (2) a board member of a credit union incorporated  
7 under Subtitle D, Title 3, Finance Code;

8 (3) an applicant for employment by the credit union  
9 department; or

10 (4) an employee of the credit union department.

11 (b) Criminal history record information obtained by the  
12 credit union commissioner under this section may not be released by  
13 any person except:

14 (1) on court order, unless the information is entered  
15 into evidence by the credit union department or a court at an  
16 administrative proceeding or a civil or criminal action under  
17 Subtitle D, Title 3, Finance Code; or

18 (2) with the consent of the person who is the subject  
19 of the criminal history record information.

20 SECTION 4. Section 555.051(a), Government Code, is amended  
21 to read as follows:

22 (a) This section applies only to information held by or for  
23 the office of the attorney general, the Texas Department of  
24 Insurance, the Texas State Board of Public Accountancy, the Public  
25 Utility Commission of Texas, ~~or~~ the State Securities Board, the  
26 Department of Savings and Mortgage Lending, the Texas Real Estate  
27 Commission, the Texas Appraiser Licensing and Certification Board,



1 the Texas Department of Banking, the credit union department, or  
2 the Office of Consumer Credit Commissioner that relates to the  
3 possible commission of corporate fraud or mortgage fraud by a  
4 person who is licensed or otherwise regulated by any of those state  
5 agencies. In this subsection, "corporate fraud" means a violation  
6 of state or federal law or rules relating to fraud committed by a  
7 corporation, limited liability company, or registered limited  
8 liability partnership or an officer, director, or partner of those  
9 entities while acting in a representative capacity.

10 SECTION 5. Section 32.32, Penal Code, is amended by  
11 amending Subsections (a) and (b) and adding Subsections (d) and (e)  
12 to read as follows:

13 (a) For purposes of this section, "credit" includes:

- 14 (1) a loan of money;
- 15 (2) furnishing property or service on credit;
- 16 (3) extending the due date of an obligation;
- 17 (4) comaking, endorsing, or guaranteeing a note or  
18 other instrument for obtaining credit;
- 19 (5) a line or letter of credit; ~~and~~
- 20 (6) a credit card, as defined in Section 32.31 (Credit  
21 Card or Debit Card Abuse); and
- 22 (7) a mortgage loan.

23 (b) A person commits an offense if he intentionally or  
24 knowingly makes a materially false or misleading written statement  
25 to obtain property or credit, including a mortgage loan [~~for~~  
26 ~~himself or another~~].

27 (d) The following agencies shall assist a prosecuting

1 attorney of the United States or of a county or judicial district of  
2 this state, a county or state law enforcement agency of this state,  
3 or a federal law enforcement agency in the investigation of an  
4 offense under this section involving a mortgage loan:

5 (1) the office of the attorney general;

6 (2) the Department of Public Safety;

7 (3) the Texas Department of Insurance;

8 (4) the Office of Consumer Credit Commissioner;

9 (5) the Texas Department of Banking;

10 (6) the credit union department;

11 (7) the Department of Savings and Mortgage Lending;

12 (8) the Texas Real Estate Commission; and

13 (9) the Texas Appraiser Licensing and Certification

14 Board.

15 (e) With the consent of the appropriate local county or  
16 district attorney, the attorney general has concurrent  
17 jurisdiction with that consenting local prosecutor to prosecute an  
18 offense under this section that involves a mortgage loan.

19 SECTION 6. Article 12.01, Code of Criminal Procedure, is  
20 amended to read as follows:

21 Art. 12.01. FELONIES. Except as provided in Article 12.03,  
22 felony indictments may be presented within these limits, and not  
23 afterward:

24 (1) no limitation:

25 (A) murder and manslaughter;

26 (B) sexual assault, if during the investigation  
27 of the offense biological matter is collected and subjected to

1 forensic DNA testing and the testing results show that the matter  
2 does not match the victim or any other person whose identity is  
3 readily ascertained; or

4 (C) an offense involving leaving the scene of an  
5 accident under Section 550.021, Transportation Code, if the  
6 accident resulted in the death of a person;

7 (2) ten years from the date of the commission of the  
8 offense:

9 (A) theft of any estate, real, personal or mixed,  
10 by an executor, administrator, guardian or trustee, with intent to  
11 defraud any creditor, heir, legatee, ward, distributee,  
12 beneficiary or settlor of a trust interested in such estate;

13 (B) theft by a public servant of government  
14 property over which he exercises control in his official capacity;

15 (C) forgery or the uttering, using or passing of  
16 forged instruments;

17 (D) injury to a child, elderly individual, or  
18 disabled individual punishable as a felony of the first degree  
19 under Section 22.04, Penal Code;

20 (E) sexual assault, except as provided by  
21 Subdivision (1) or (5); or

22 (F) arson;

23 (3) seven years from the date of the commission of the  
24 offense:

25 (A) misapplication of fiduciary property or  
26 property of a financial institution;

27 (B) securing execution of document by deception;

1 [~~or~~]

2 (C) a violation under Sections 162.403(22)-(39),  
3 Tax Code;

4 (D) false statement to obtain property or credit;  
5 or

6 (E) money laundering;

7 (4) five years from the date of the commission of the  
8 offense:

9 (A) theft, burglary, robbery;

10 (B) kidnapping;

11 (C) injury to a child, elderly individual, or  
12 disabled individual that is not punishable as a felony of the first  
13 degree under Section 22.04, Penal Code;

14 (D) abandoning or endangering a child; or

15 (E) insurance fraud;

16 (5) ten years from the 18th birthday of the victim of  
17 the offense:

18 (A) indecency with a child under Section  
19 21.11(a)(1) or (2), Penal Code; or

20 (B) except as provided by Subdivision (1), sexual  
21 assault under Section 22.011(a)(2), Penal Code, or aggravated  
22 sexual assault under Section 22.021(a)(1)(B), Penal Code; or

23 (6) three years from the date of the commission of the  
24 offense: all other felonies.

25 SECTION 7. The change in law made by this Act to Article  
26 12.01, Code of Criminal Procedure, does not apply to an offense if  
27 the prosecution of that offense became barred by limitation before

1 the effective date of this Act. The prosecution of that offense  
2 remains barred as if this Act had not taken effect.

3 SECTION 8. To the extent of a conflict, this Act prevails  
4 over any other Act of the 80th Legislature, Regular Session, 2007,  
5 regardless of the relative dates of enactment.

6 SECTION 9. This Act takes effect September 1, 2007.



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 2, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB716** by Solomons (relating to mortgage fraud; providing criminal penalties.), **Committee Report 2nd House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB716, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Probable Revenue Gain from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042
2008	(\$304,599)	\$304,599	(\$204,261)	\$204,261
2009	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2010	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2011	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2012	(\$269,994)	\$269,994	(\$188,112)	\$188,112

Fiscal Year	Change in Number of State Employees from FY 2007
2008	8.0
2009	8.0
2010	8.0
2011	8.0
2012	8.0





## **Fiscal Analysis**

The bill would amend the Government Code relating to mortgage fraud by creating the residential mortgage fraud task force (task force) that is comprised of various agencies, including the Texas Real Estate Commission and the Texas Department of Insurance, and that is overseen by the Office of the Attorney General (OAG). The bill would require the task force to submit an annual report to the governor, lieutenant governor, and speaker of the House of Representatives that details the progress of agencies in accomplishing the mission of the task force. This bill would also require a person who determines or reasonably suspects fraudulent activity to report the information to an authorized governmental agency, as defined by the bill. The bill would require certain agencies to assist a prosecuting attorney in the investigation of an offense prescribed by the bill and authorize the OAG to prosecute an offense that involves mortgage fraud under certain circumstances.

The provisions of the bill would only apply on or after the effective date of the bill.

This bill would take effect September 1, 2007.

## **Methodology**

Based on information provided by the Texas Real Estate Commission (TREC), this analysis assumes that the TREC would receive an additional 40 mortgage fraud complaints, 20 each for real estate brokers and real estate appraisers.

It is estimated that TREC would have costs associated with receiving additional mortgage fraud cases. Based on the analysis of TREC, it is assumed that investigating these additional cases would necessitate additional resources at a cost of \$574,593 through 2009. TREC estimates costs for staff of \$195,560 for 5.0 FTEs in FY08 through FY12. These FTEs include 2.0 investigators, 2.0 legal assistants, and 1.0 attorney. Other operating expenses, travel, and rent are estimated at \$53,715 in FY08 and \$19,110 in FY09 through FY12. Estimated costs also include \$55,324 in FY08 through FY12 for associated benefits.

It is assumed TREC would assess or increase fees in an amount sufficient to recover any additional costs associated with implementing the provisions of the bill.

Based on information provided by the Texas Department of Insurance (TDI), this analysis assumes that an increase in mortgage fraud reports resulting from this bill will result in 12 new investigations per year.

Based on the analysis of TDI, it is assumed that these new investigations would necessitate additional resources at a cost to General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees of \$392,373 through 2009. TDI estimates costs for staff of \$127,605 for 3.0 investigators in FY08 through FY12. Travel, rent, and all other operating expenses are estimated at \$40,557 in FY08 and \$24,408 in FY09 through FY12. Estimated costs also include \$36,099 in FY08 through FY12.

This analysis assumes that all costs incurred in excess of revenues generated would be paid for from General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees from either existing fund balances or insurance maintenance tax revenues because TDI is required to generate revenues equivalent to its costs of operation under current law.

## **Technology**

It is assumed that there would be a one-time technology impact of \$10,105 to TREC and \$6,657 to TDI in fiscal year 2008 for the acquisition of computer equipment for the additional FTEs necessary to implement the provisions of this bill.



**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance, 466 Office of Consumer Credit Commissioner, 469 Credit Union Department

**LBB Staff:** JOB, CL, JRO, MW, TGI



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 20, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB716** by Solomons (Relating to mortgage fraud; providing criminal penalties.), As Engrossed

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB716, As Engrossed: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Probable Revenue Gain from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042
2008	(\$304,599)	\$304,599	(\$204,261)	\$204,261
2009	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2010	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2011	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2012	(\$269,994)	\$269,994	(\$188,112)	\$188,112

Fiscal Year	Change in Number of State Employees from FY 2007
2008	8.0
2009	8.0
2010	8.0
2011	8.0
2012	8.0



## **Fiscal Analysis**

The bill would amend the Government Code relating to mortgage fraud by creating the residential mortgage fraud task force (task force) that is comprised of various agencies, including the Texas Real Estate Commission and the Texas Department of Insurance, and that is overseen by the Office of the Attorney General. The bill would require the task force to submit an annual report to the governor, lieutenant governor, and speaker of the House of Representatives that details the progress of agencies in accomplishing the mission of the task force. This bill would also require a person who determines or reasonably suspects fraudulent activity to report the information to an authorized governmental agency, as defined by the bill. This bill would require certain agencies to assist a prosecuting attorney in the investigation of an offense prescribed by the bill.

The provisions of the bill would only apply on or after the effective date of the bill.

This bill would take effect September 1, 2007.

## **Methodology**

Based on information provided by the Texas Real Estate Commission (TREC), this analysis assumes that the Texas Real Estate Commission (TREC) would receive an additional 40 mortgage fraud complaints, 20 each for real estate brokers and real estate appraisers.

It is estimated that TREC would have costs associated with receiving additional mortgage fraud cases. Based on the analysis of TREC, it is assumed that investigating these additional cases would necessitate additional resources at a cost of \$574,593 through 2009. TREC estimates costs for staff of \$195,560 for 5.0 FTEs in FY08 through FY12. These FTEs include 2.0 investigators, 2.0 legal assistants, and 1.0 attorney. Other operating expenses, travel, and rent are estimated at \$53,715 in FY08 and \$19,110 in FY09 through FY12. Estimated costs also include \$55,324 in FY08 through FY12 for associated benefits.

It is assumed TREC would assess or increase fees in an amount sufficient to recover any additional costs associated with implementing the provisions of the bill.

Based on information provided by the Texas Department of Insurance (TDI), this analysis assumes that an increase in mortgage fraud reports resulting from this bill will result in 12 new investigations per year.

Based on the analysis of TDI, it is assumed that these new investigations would necessitate additional resources at a cost to General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees of \$392,373 through 2009. TDI estimates costs for staff of \$127,605 for 3.0 investigators in FY08 through FY12. Travel, rent, and all other operating expenses are estimated at \$40,557 in FY08 and \$24,408 in FY09 through FY12. Estimated costs also include \$36,099 in FY08 through FY12.

This analysis assumes that all costs incurred in excess of revenues generated would be paid for from General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees from either existing fund balances or insurance maintenance tax revenues because TDI is required to generate revenues equivalent to its costs of operation under current law.

## **Technology**

It is assumed that there would be a one-time technology impact of \$10,105 to TREC and \$6,657 to TDI in fiscal year 2008 for the acquisition of computer equipment for the additional FTEs necessary to implement the provisions of this bill.





## Local Government Impact

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 454 Department of Insurance, 466 Office of Consumer Credit Commissioner, 469 Credit Union Department

**LBB Staff:** JOB, CL, JRO, MW, TGI



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 20, 2007**

**TO:** Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB716** by Solomons (relating to mortgage fraud; providing criminal penalties. ), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB716, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	\$0
2009	\$0
2010	\$0
2011	\$0
2012	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable Revenue Gain from <i>GENERAL REVENUE</i> <i>FUND</i> 1	Probable (Cost) from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042	Probable Revenue Gain from <i>INSURANCE MAINT</i> <i>TAX FEES</i> 8042
2008	(\$304,599)	\$304,599	(\$204,261)	\$204,261
2009	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2010	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2011	(\$269,994)	\$269,994	(\$188,112)	\$188,112
2012	(\$269,994)	\$269,994	(\$188,112)	\$188,112

Fiscal Year	Change in Number of State Employees from FY 2007
2008	8.0
2009	8.0
2010	8.0
2011	8.0
2012	8.0

**Fiscal Analysis**

The bill would amend the Government Code relating to mortgage fraud by creating the residential



mortgage fraud task force (task force) that is comprised of various agencies, including the Texas Real Estate Commission and the Texas Department of Insurance, and that is overseen by the Office of the Attorney General. The bill would require the task force to submit an annual report to the governor, lieutenant governor, and speaker of the House of Representatives that details the progress of agencies in accomplishing the mission of the task force. This bill would also require a person who determines or reasonably suspects fraudulent activity to report the information to an authorized governmental agency, as defined by the bill. This bill would require certain agencies to assist a prosecuting attorney in the investigation of an offense prescribed by the bill.

The provisions of the bill would only apply on or after the effective date of the bill.

This bill would take effect September 1, 2007.

### **Methodology**

Based on information provided by the Texas Real Estate Commission (TREC), this analysis assumes that the Texas Real Estate Commission (TREC) would receive an additional 40 mortgage fraud complaints, 20 each for real estate brokers and real estate appraisers.

It is estimated that TREC would have costs associated with receiving additional mortgage fraud cases. Based on the analysis of TREC, it is assumed that investigating these additional cases would necessitate additional resources at a cost of \$574,593 through 2009. TREC estimates costs for staff of \$195,560 for 5.0 FTEs in FY08 through FY12. These FTEs include 2.0 investigators, 2.0 legal assistants, and 1.0 attorney. Other operating expenses, travel, and rent are estimated at \$53,715 in FY08 and \$19,110 in FY09 through FY12. Estimated costs also include \$55,324 in FY08 through FY12 for associated benefits.

It is assumed TREC would assess or increase fees in an amount sufficient to recover any additional costs associated with implementing the provisions of the bill.

Based on information provided by the Texas Department of Insurance (TDI), this analysis assumes that an increase in mortgage fraud reports resulting from this bill will result in 12 new investigations per year.

Based on the analysis of TDI, it is assumed that these new investigations would necessitate additional resources at a cost to General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees of \$392,373 through 2009. TDI estimates costs for staff of \$127,605 for 3.0 investigators in FY08 through FY12. Travel, rent, and all other operating expenses are estimated at \$40,557 in FY08 and \$24,408 in FY09 through FY12. Estimated costs also include \$36,099 in FY08 through FY12.

This analysis assumes that all costs incurred in excess of revenues generated would be paid for from General Revenue - Insurance Companies Maintenance Tax and Insurance Department Fees from either existing fund balances or insurance maintenance tax revenues because TDI is required to generate revenues equivalent to its costs of operation under current law.

### **Technology**

It is assumed that there would be a one-time technology impact of \$10,105 to TREC and \$6,657 to TDI in fiscal year 2008 for the acquisition of computer equipment for the additional FTEs necessary to implement the provisions of this bill.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 302 Office of the Attorney General, 329 Real Estate Commission, 405 Department of Public Safety, 450 Department of Savings and Mortgage Lending, 451 Department of



Banking, 454 Department of Insurance, 466 Office of Consumer Credit Commissioner,  
469 Credit Union Department

**LBB Staff:** JOB, JRO, MW, TGI





**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 1, 2007**

**TO:** Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB716** by Solomons (Relating to residential mortgage fraud; providing criminal penalties.),  
**As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Business and Commerce Code to authorize a mortgage lender or licensed mortgage broker to provide a particular written notice at any time to an applicant for a residential mortgage loan or to another party to the mortgage lending process.

The bill would provide criminal penalties for certain violations relating to residential mortgage fraud and provide that each violation constitutes a separate offense. The provisions of this bill would only apply to offenses committed on or after the effective date of the bill.

Based on the analysis of the Department of Savings and Mortgage Lending, it is assumed that duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

This bill would take effect September 1, 2007.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 329 Real Estate Commission, 450 Department of Savings and Mortgage Lending

**LBB Staff:** JOB, JRO, MW, TGI



**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**May 3, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB716** by Solomons (relating to mortgage fraud; providing criminal penalties.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** JOB, GG



**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**April 23, 2007**

**TO:** Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB716** by Solomons (Relating to mortgage fraud; providing criminal penalties.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** JOB, GG



**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

March 20, 2007

**TO:** Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE:** **HB716** by Solomons (relating to mortgage fraud; providing criminal penalties. ), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

**Source Agencies:**

**LBB Staff:** JOB, GG





**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**80TH LEGISLATIVE REGULAR SESSION**

**February 28, 2007**

**TO:** Honorable Burt R. Solomons, Chair, House Committee on Financial Institutions

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB716** by Solomons (Relating to residential mortgage fraud; providing criminal penalties.),  
**As Introduced**

The bill would amend the Business and Commerce Code by making residential mortgage fraud punishable as a felony of the second degree. A second or subsequent offense would be punishable as a felony of the first degree. Each residential property transaction that results in residential mortgage fraud would constitute a separate offense.

A second degree felony is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A first degree felony is punishable by imprisonment in the institutional division for life or for any term of not more than 99 years or less than 5 years, or in addition to imprisonment, a fine not to exceed \$10,000.

The impact of the bill on correctional populations would depend on how many persons would be prosecuted under the provision of the bill, and the extent to which punishment would be enhanced under the proposed statute compared to existing statute. For this analysis it is assumed that the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

**Source Agencies:**

**LBB Staff:** JOB, GG

