

House Bill 716
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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 statement to obtain a home loan.

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

(c) On receipt of the notice, the loan applicant shall

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verify the information and execute the notice.

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

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

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

(1) "Authorized governmental agency" means:

(A) the attorney general;

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

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

(D) the Department of Public Safety, the Texas Department of Insurance, the Office of Consumer Credit Commissioner, the Texas Department of Banking, the credit union department, the Department of Savings and Mortgage Lending, the Texas Real Estate Commission, or the Texas Appraiser Licensing and Certification Board.

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

(b) If a person determines or reasonably suspects that

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fraudulent activity has been committed or is about to be committed, the person shall report the information to an authorized governmental agency. If a person reports the information to the attorney general, the attorney general shall notify each agency with representation on the residential mortgage fraud task force under Section 402.032. If a financial institution or person voluntarily or pursuant to this section reports fraudulent activity to an authorized governmental agency, the financial institution or person may not notify any person involved in the fraudulent activity that the fraudulent activity has been reported, and the authorized governmental agency who has any knowledge that such report was made shall not disclose to any person involved in the fraudulent activity that the fraudulent activity has been reported. Any financial institution or person that makes a voluntary report of any possible violation of law or regulation to an authorized governmental agency shall not be liable to any person under any law or regulation of the state or the United States for such report.

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

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

(b) The office of the attorney general shall establish the task force to form a strategic partnership between state, federal, and local law enforcement agencies to better enable law enforcement and state agencies to take a proactive stance towards tracking and prosecuting

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mortgage fraud and the perpetrators of mortgage fraud statewide.

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

(1) the attorney general;

(2) the consumer credit commissioner;

(3) the banking commissioner;

(4) the credit union commissioner;

(5) the commissioner of insurance;

(6) the savings and mortgage lending commissioner;

(7) the presiding officer of the Texas Real Estate Commission; and

(8) the presiding officer of the Texas Appraiser Licensing and Certification Board.

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

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

(1) sharing information and resources; and

(2) successfully enforcing administrative and criminal actions against perpetrators of mortgage fraud.

(f) The agencies of the persons listed in Subsection (c) may share confidential information or information to which access is otherwise restricted by law with one or more of the other agencies of the persons listed in Subsection (c) for investigative purposes described by Subsection (b). Except as provided by this subsection, confidential information that is shared under this

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subsection remains confidential and legal restrictions on access to the information apply.

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

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

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

No equivalent provision.

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

Sec. 411.1407. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CREDIT UNION DEPARTMENT. (a) The credit union commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

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

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- (2) a board member of a credit union incorporated under Subtitle D, Title 3, Finance Code;
- (3) an applicant for employment by the credit union department; or
- (4) an employee of the credit union department.
- (b) Criminal history record information obtained by the credit union commissioner under this section may not be released by any person except:
 - (1) on court order, unless the information is entered into evidence by the credit union department or a court at an administrative proceeding or a civil or criminal action under Subtitle D, Title 3, Finance Code; or
 - (2) with the consent of the person who is the subject of the criminal history record information.

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

(a) This section applies only to information held by or for the office of the attorney general, the Texas Department of Insurance, the Texas State Board of Public Accountancy, the Public Utility Commission of Texas, ~~the State Securities Board,~~ the Department of Savings and Mortgage Lending, the Texas Real Estate Commission, the Texas Appraiser Licensing and Certification Board, the Texas Department of Banking, the credit union department, or the Office of Consumer Credit Commissioner that relates to the possible commission of corporate fraud or mortgage fraud by a person who is licensed or otherwise regulated by any of

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those state agencies. In this subsection, "corporate fraud" means a violation of state or federal law or rules relating to fraud committed by a corporation, limited liability company, or registered limited liability partnership or an officer, director, or partner of those entities while acting in a representative capacity.

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

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

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

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

(d) The following agencies shall assist a prosecuting attorney of the United States or of a county or judicial district of this state, a county or state law enforcement agency of this state, or a federal law enforcement agency in the investigation of an offense under this section

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

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

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

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

(d) The following agencies shall assist a prosecuting attorney of the United States or of a county or judicial district of this state, a county or state law enforcement agency of this state, or a federal law enforcement agency in the investigation of an offense under this section

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involving a mortgage loan:

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

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

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

- (1) no limitation:
 - (A) murder and manslaughter;
 - (B) sexual assault, if during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

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involving a mortgage loan:

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

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

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- (C) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;
- (2) ten years from the date of the commission of the offense:
 - (A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
 - (B) theft by a public servant of government property over which he exercises control in his official capacity;
 - (C) forgery or the uttering, using or passing of forged instruments;
 - (D) injury to a child, elderly individual, or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;
 - (E) sexual assault, except as provided by Subdivision (1) or (5); or
 - (F) arson;
- (3) seven years from the date of the commission of the offense:
 - (A) misapplication of fiduciary property or property of a financial institution;
 - (B) securing execution of document by deception; ~~or~~
 - (C) a violation under Sections 162.403(22)-(39), Tax Code;
 - (D) false statement to obtain property or credit; or
 - (E) money laundering;
- (4) five years from the date of the commission of the offense:

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- (A) theft, burglary, robbery;
- (B) kidnapping;
- (C) injury to a child, elderly individual, or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;
- (D) abandoning or endangering a child; or
- (E) insurance fraud;
- (5) ten years from the 18th birthday of the victim of the offense:
 - (A) indecency with a child under Section 21.11(a)(1) or (2), Penal Code; or
 - (B) except as provided by Subdivision (1), sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code; or
- (6) three years from the date of the commission of the offense: all other felonies.

SECTION 6. The change in law made by this Act to Article 12.01, Code of Criminal Procedure, does not apply to an offense if the prosecution of that offense became barred by limitation before the effective date of this Act. The prosecution of that offense remains barred as if this Act had not taken effect.

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

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enactment.

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

SECTION 9. Same as House version.