

By: Rodriguez, Keffer

H.B. No. 2694

Substitute the following for H.B. No. 2694:

By: Hernandez

C.S.H.B. No. 2694

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the duties of a residential mortgage servicer to a
3 borrower.

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

5 SECTION 1. Title 5, Finance Code, is amended by adding
6 Chapter 397 to read as follows:

7 CHAPTER 397. RESIDENTIAL MORTGAGE SERVICERS

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Sec. 397.001. DEFINITION. In this chapter, "mortgage
10 servicer" has the meaning assigned by Section 51.0001, Property
11 Code.

12 Sec. 397.002. APPLICABILITY. This chapter applies only to
13 a loan secured by a first lien on residential real property that is
14 not a federally related mortgage loan, as defined by 12 U.S.C.
15 Section 2602.

16 [Sections 397.003-397.050 reserved for expansion]

17 SUBCHAPTER B. DEBTOR REQUESTS FOR INFORMATION

18 Sec. 397.051. RECORDKEEPING. A mortgage servicer shall
19 maintain written or electronic records of each written request for
20 information regarding a dispute or error involving the debtor's
21 account until the loan is paid in full, otherwise satisfied, or
22 sold.

23 Sec. 397.052. PROVISION OF GENERAL INFORMATION ON REQUEST.

24 (a) A mortgage servicer shall provide the following to a debtor in

1 response to a debtor's written request:

2 (1) a copy of the original note or, if the original
3 note is unavailable, an affidavit of lost note; and

4 (2) a statement that:

5 (A) identifies and itemizes all fees and charges
6 assessed under the loan transaction and provides a full payment
7 history identifying in a clear and conspicuous manner all of the
8 debits, credits, application of and disbursement of all payments
9 received from or for the benefit of the debtor, and other activity
10 on the loan, including any escrow or suspense account activity; and

11 (B) covers the two years preceding the receipt of
12 the request or the period for which the servicer has serviced the
13 loan, whichever is shorter.

14 (b) If the mortgage servicer claims that delinquent or
15 outstanding sums were owed on the loan before the two-year period
16 preceding the receipt of the request under Subsection (a) or before
17 the servicer began servicing the loan, whichever is shorter, the
18 servicer shall provide an account history beginning with the
19 earliest month for which the servicer claims outstanding sums were
20 owed on the loan and ending on the date of the request for
21 information. For purposes of this subsection, the date of the
22 request for information is presumed to be not later than the 30th
23 day before the date the servicer receives the request.

24 (c) A mortgage servicer must provide a statement under
25 Subsection (a) on or before the 25th business day after the date the
26 servicer receives a written request from the debtor that:

27 (1) includes or otherwise enables the servicer to

1 identify the name and account of the debtor; and

2 (2) includes a statement that the account is or may be
3 in error or otherwise provides sufficient detail to the servicer
4 regarding information sought by the debtor.

5 Sec. 397.053. PROVISION OF INFORMATION REGARDING DISPUTE OR
6 ERROR. (a) A mortgage servicer shall provide a written statement
7 to a debtor in response to a debtor's written request for
8 information regarding a dispute or error involving the debtor's
9 account that includes the following information, if requested:

10 (1) whether the account is current and an explanation
11 of any default and the date the account went into default;

12 (2) the current balance due on the loan, including the
13 principal due, the amount of any funds held in a suspense account,
14 the amount of any escrow balance known to the servicer, and whether
15 there are any escrow deficiencies or shortages known to the
16 servicer;

17 (3) the identity, address, and other relevant
18 information about the current holder, owner, or assignee of the
19 loan; and

20 (4) the telephone number and mailing address of a
21 servicer representative with the information and authority to
22 answer questions and resolve disputes.

23 (b) A mortgage servicer must provide a statement under
24 Subsection (a) on or before the 10th day after the date the servicer
25 receives a written request from the debtor that:

26 (1) includes or otherwise enables the servicer to
27 identify the name and account of the debtor; and

1 (2) includes a statement that the account is or may be
2 in error or otherwise provides sufficient detail to the servicer
3 regarding information sought by the debtor.

4 [Sections 397.054-397.100 reserved for expansion]

5 SUBCHAPTER C. REMEDIES

6 Sec. 397.101. ENFORCEMENT GENERALLY. The Department of
7 Savings and Mortgage Lending, the attorney general, or any party to
8 a loan to which this chapter applies may enforce this chapter.

9 Sec. 397.102. ACTION BY DEBTOR. In addition to any other
10 legal and equitable remedy available, a debtor injured by a
11 violation of this chapter may bring an action for recovery of actual
12 damages, including reasonable attorney's fees.

13 SECTION 2. This Act takes effect September 1, 2009.