

By: Deshotel

H.B. No. 4397

A BILL TO BE ENTITLED

AN ACT

1
2 relating to payoff statements provided in connection with certain
3 home loans.

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

5 SECTION 1. Subchapter B, Chapter 343, Finance Code, is
6 amended by adding Section 343.106 to read as follows:

7 Sec. 343.106. PAYOFF STATEMENTS. (a) In this section,
8 "mortgagee," "mortgage servicer," and "mortgagor" have the
9 meanings assigned by Section 51.0001, Property Code.

10 (b) The finance commission shall adopt rules governing
11 requests by title insurance companies for payoff information from
12 mortgage servicers related to home loans and the provision of that
13 information, including rules prescribing a standard payoff
14 statement form that must be used by mortgage servicers to provide
15 those payoff statements.

16 (c) In adopting rules under Subsection (b), the finance
17 commission shall require a mortgage servicer who receives a request
18 for a payoff statement with respect to a home loan from a title
19 insurance company to deliver the requested payoff statement within
20 a time prescribed by finance commission rule, which must allow the
21 mortgage servicer at least three business days after the date the
22 request is received to deliver the payoff statement.

23 (d) The standard payoff statement form prescribed by the
24 finance commission under Subsection (b) must require that a

1 completed form:

2 (1) state the proposed closing date for the sale and
3 purchase of the real property securing the home loan or for any
4 other transaction that would involve the payoff of the home loan or
5 other debt secured by the property, as specified by the title
6 insurance company's request; and

7 (2) provide a payoff amount that is valid through that
8 date.

9 (e) Except as provided by Subsection (f) or (g), if the
10 mortgage servicer provides a completed payoff statement form that
11 meets the requirements of this section and rules adopted under this
12 section in response to a request for a payoff statement, the
13 mortgage servicer or mortgagee may not demand that a mortgagor pay
14 an amount in excess of the payoff amount specified in the payoff
15 statement.

16 (f) If a mortgage servicer or mortgagee discovers that an
17 error has been made in a payoff statement, the mortgage servicer or
18 mortgagee may correct and deliver the statement on or before the
19 second business day before the specified closing date. The
20 corrected payoff statement must be delivered to the requestor by:

21 (1) certified mail with return receipt requested; and
22 (2) electronic means, if the requestor provides the
23 mortgage servicer with a means to deliver the corrected statement
24 electronically.

25 (g) If a mortgage servicer makes an error in a payoff amount
26 contained in a payoff statement that results in the mortgage
27 servicer requesting an amount that is less than the correct payoff

1 amount, the mortgage servicer or mortgagee fails to correct the
2 payoff statement in accordance with Subsection (f), and the
3 mortgage servicer receives payment in the amount specified in the
4 payoff statement, the difference in the amount included in the
5 payoff statement and the correct payoff amount becomes an unsecured
6 liability of the former mortgagor owed to the mortgagee.

7 (h) If the mortgage servicer receives payment in the amount
8 specified in the payoff statement, including any corrected
9 statement provided in accordance with Subsection (f):

10 (1) the home loan and other obligations covered by the
11 payoff statement, if any, are considered paid in full; and

12 (2) the mortgagee shall execute and deliver to the
13 mortgagor, within a reasonable time after payment, a release of the
14 lien on the real property securing the home loan and any other
15 obligations, or a copy of an endorsement and assignment of the lien
16 to a lender that is refinancing the home loan.

17 SECTION 2. (a) As soon as practicable after the effective
18 date of this Act, the Finance Commission of Texas shall adopt the
19 form required by Section 343.106, Finance Code, as added by this
20 Act.

21 (b) Notwithstanding Section 343.106, Finance Code, as added
22 by this Act, a mortgage servicer is not required to comply with that
23 section until the Finance Commission of Texas adopts the form
24 required by that section.

25 SECTION 3. This Act takes effect September 1, 2009.