

By: Deshotel

H.B. No. 4397

A BILL TO BE ENTITLED

AN ACT

relating to payoff statements in connection with mortgage loans.

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

SECTION 1. Section 343 Finance Code is amended to add a new section 343.207 to read as follows:

343.207: Pay off statement form required; right of borrower and third parties to rely thereon

1. The Finance Commission shall promulgate a form of payoff statement for use in connection with all loans secured by real property in this State. Such form shall:

a. be addressed to the secured party shown on the last recorded lien instrument in the public records for the county in which the land is located,

b. shall identify the land charged with the lien by the legal description contained in the lien instrument,

c. shall identify the lien instrument by reference to the borrowers, trustee, lender and original amount of the loan;

d. Request a payoff of all amounts owed by the borrowers attributable by the lender to the real property secured by the lien instrument, whether one or multiple notes;

e. States the proposed closing date of any transactions at which the loan is proposed to be paid;

f. Requests per diem interest necessary to fully pay the loan from the date the payoff letter is returned to the borrower

1 or third party requesting the payoff statement on behalf of the  
2 borrower to the proposed closing date set out in the request;

3 g. Provision for such payoff amount to be stated by the  
4 lender or mortgage servicer signed by an authorized officer or  
5 agent of the entity owning the note and loan.

6 2. When a payoff is properly requested as provided in  
7 subsection 1 of this section and the lender or mortgage servicer has  
8 provided the completed form to the borrower or third party  
9 requesting it on behalf of the borrower the lender or mortgage  
10 servicer is bound to the borrower and to the third party requesting  
11 the payoff statement on behalf of the borrower and the borrower and  
12 any third party requesting the payoff statement on the borrower's  
13 behalf for such amount and the lender or mortgage servicer cannot  
14 demand or collect a different amount after the proposed closing  
15 date as set out in the payoff statement request. Any amounts  
16 remaining owed because of a mistake by the lender or mortgage  
17 servicer does not constitute a lien against the property but shall  
18 remain the personal liability of the borrower.

19 3. When the payoff has been properly requested and provided  
20 as set out in this section, the lender or mortgage servicer who  
21 notices a material error in the payment statement provided to the  
22 borrower or a third party requesting the payment statement on  
23 behalf of the borrower, the lender or mortgage servicer may provide  
24 a corrected payoff statement 2 business days before the closing  
25 date set out on the payoff request. Such corrected payoff statement  
26 shall be provided via electronic means as well as certified mail or  
27 receipted delivery service. A material error is defined as an error

1 in the amount of the payoff of more than 1/2 of 1% of the loan  
2 amount. If no corrected payoff statement is issued by the lender or  
3 mortgage servicer, the lender is bound by the original payoff  
4 statement.

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