

By: Deshotel

H.B. No. 558

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 on the
20 prescribed form within a time specified by finance commission rule,
21 which must allow the mortgage servicer at least seven business days
22 after the date the request is received to deliver the payoff
23 statement.

24 (d) The standard payoff statement form prescribed by the

1 finance commission under Subsection (b) must require that a
2 completed form:

3 (1) state the proposed closing date for the sale and
4 conveyance of the real property securing the home loan or for any
5 other transaction that would involve the payoff of the home loan, as
6 specified by the title 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, on or before the proposed
14 closing date, demand that a mortgagor pay an amount in excess of the
15 payoff amount specified in the payoff statement.

16 (f) If a mortgage servicer or mortgagee discovers that a
17 payoff statement is incorrect, the mortgage servicer or mortgagee
18 may correct and deliver the statement on or before the second
19 business day before the specified proposed 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 submits an incorrect payoff
26 statement to a title insurance company that results in the mortgage
27 servicer requesting an amount that is less than the correct payoff

1 amount, the mortgage servicer or mortgagee does not deliver a
2 corrected payoff statement in accordance with Subsection (f), and
3 the mortgage servicer receives payment in the amount specified in
4 the payoff statement, the difference between the amount included in
5 the payoff statement and the correct payoff amount:

6 (1) remains a liability of the former mortgagor owed
7 to the mortgagee; and

8 (2) if the payoff statement is in connection with:

9 (A) the sale of the real property:

10 (i) the deed of trust or other contract lien
11 securing an interest in the property is released;

12 (ii) within a reasonable time after receipt
13 of payment by the mortgagee or mortgage servicer, the mortgagee or
14 mortgage servicer, as applicable, shall deliver to the title
15 company a release of the deed of trust or other contract lien
16 securing an interest in the property; and

17 (iii) any proceeds disbursed at closing to
18 or for the benefit of the mortgagor, excluding closing costs
19 related to the transaction, are subject to a constructive trust for
20 the benefit of the mortgagee to the extent of the underpayment; or

21 (B) a refinance by the mortgagor of the existing
22 home loan:

23 (i) the lien securing the existing home
24 loan becomes subordinate to the lien securing the new home loan; and

25 (ii) any proceeds disbursed at closing to
26 or for the benefit of the mortgagor, excluding closing costs
27 related to the transaction, are subject to a constructive trust for

1 the benefit of the mortgagee to the extent of the underpayment.

2 SECTION 2. (a) As soon as practicable after the effective
3 date of this Act, the Finance Commission of Texas shall adopt the
4 rules, including the standard payoff statement form, required by
5 Section 343.106, Finance Code, as added by this Act.

6 (b) Notwithstanding Section 343.106, Finance Code, as added
7 by this Act, a mortgage servicer is not required to comply with that
8 section before the 90th day after the date the Finance Commission of
9 Texas adopts the rules required by that section.

10 SECTION 3. This Act takes effect September 1, 2011.