

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 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 conveyance of the real property securing the home loan or for any
4 other transaction that would involve the payoff of the home loan, as
5 specified by the title insurance company's request; and

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

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

15 (f) If a mortgage servicer or mortgagee discovers that an
16 error has been made in a payoff statement, the mortgage servicer or
17 mortgagee may correct and deliver the statement on or before the
18 second business day before the specified proposed closing date.
19 The corrected payoff statement must be delivered to the requestor
20 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 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 becomes an
6 unsecured liability of the former mortgagor owed to the mortgagee,
7 notwithstanding Subsection (h)(1).

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

11 (1) the home loan covered by the payoff statement is
12 considered paid in full; and

13 (2) the mortgagee shall execute and deliver to the
14 mortgagor, within a reasonable time after receipt of the payment by
15 the mortgage servicer:

16 (A) a release of the lien on the real property
17 securing the home loan; or

18 (B) a copy of an endorsement and assignment of
19 the lien to a lender that is refinancing the home loan.

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

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

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