

1-1 By: Deshotel (Senate Sponsor - Carona) H.B. No. 558  
1-2 (In the Senate - Received from the House April 14, 2011;  
1-3 April 20, 2011, read first time and referred to Committee on  
1-4 Business and Commerce; April 26, 2011, reported favorably by the  
1-5 following vote: Yeas 9, Nays 0; April 26, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to payoff statements provided in connection with certain  
1-9 home loans.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter B, Chapter 343, Finance Code, is  
1-12 amended by adding Section 343.106 to read as follows:

1-13 Sec. 343.106. PAYOFF STATEMENTS. (a) In this section,  
1-14 "mortgagee," "mortgage servicer," and "mortgagor" have the  
1-15 meanings assigned by Section 51.0001, Property Code.

1-16 (b) The finance commission shall adopt rules governing  
1-17 requests by title insurance companies for payoff information from  
1-18 mortgage servicers related to home loans and the provision of that  
1-19 information, including rules prescribing a standard payoff  
1-20 statement form that must be used by mortgage servicers to provide  
1-21 those payoff statements.

1-22 (c) In adopting rules under Subsection (b), the finance  
1-23 commission shall require a mortgage servicer who receives a request  
1-24 for a payoff statement with respect to a home loan from a title  
1-25 insurance company to deliver the requested payoff statement on the  
1-26 prescribed form within a time specified by finance commission rule,  
1-27 which must allow the mortgage servicer at least seven business days  
1-28 after the date the request is received to deliver the payoff  
1-29 statement.

1-30 (d) The standard payoff statement form prescribed by the  
1-31 finance commission under Subsection (b) must require that a  
1-32 completed form:

1-33 (1) state the proposed closing date for the sale and  
1-34 conveyance of the real property securing the home loan or for any  
1-35 other transaction that would involve the payoff of the home loan, as  
1-36 specified by the title insurance company's request; and

1-37 (2) provide a payoff amount that is valid through that  
1-38 date.

1-39 (e) Except as provided by Subsection (f) or (g), if the  
1-40 mortgage servicer provides a completed payoff statement form that  
1-41 meets the requirements of this section and rules adopted under this  
1-42 section in response to a request for a payoff statement, the  
1-43 mortgage servicer or mortgagee may not, on or before the proposed  
1-44 closing date, demand that a mortgagor pay an amount in excess of the  
1-45 payoff amount specified in the payoff statement.

1-46 (f) If a mortgage servicer or mortgagee discovers that a  
1-47 payoff statement is incorrect, the mortgage servicer or mortgagee  
1-48 may correct and deliver the statement on or before the second  
1-49 business day before the specified proposed closing date. The  
1-50 corrected payoff statement must be delivered to the requestor by:

1-51 (1) certified mail with return receipt requested; and

1-52 (2) electronic means, if the requestor provides the  
1-53 mortgage servicer with a means to deliver the corrected statement  
1-54 electronically.

1-55 (g) If a mortgage servicer submits an incorrect payoff  
1-56 statement to a title insurance company that results in the mortgage  
1-57 servicer requesting an amount that is less than the correct payoff  
1-58 amount, the mortgage servicer or mortgagee does not deliver a  
1-59 corrected payoff statement in accordance with Subsection (f), and  
1-60 the mortgage servicer receives payment in the amount specified in  
1-61 the payoff statement, the difference between the amount included in  
1-62 the payoff statement and the correct payoff amount:

1-63 (1) remains a liability of the former mortgagor owed  
1-64 to the mortgagee; and

2-1 (2) if the payoff statement is in connection with:

2-2 (A) the sale of the real property:

2-3 (i) the deed of trust or other contract lien  
2-4 securing an interest in the property is released;

2-5 (ii) within a reasonable time after receipt  
2-6 of payment by the mortgagee or mortgage servicer, the mortgagee or  
2-7 mortgage servicer, as applicable, shall deliver to the title  
2-8 company a release of the deed of trust or other contract lien  
2-9 securing an interest in the property; and

2-10 (iii) any proceeds disbursed at closing to  
2-11 or for the benefit of the mortgagor, excluding closing costs  
2-12 related to the transaction, are subject to a constructive trust for  
2-13 the benefit of the mortgagee to the extent of the underpayment; or

2-14 (B) a refinance by the mortgagor of the existing  
2-15 home loan:

2-16 (i) the lien securing the existing home  
2-17 loan becomes subordinate to the lien securing the new home loan; and

2-18 (ii) any proceeds disbursed at closing to  
2-19 or for the benefit of the mortgagor, excluding closing costs  
2-20 related to the transaction, are subject to a constructive trust for  
2-21 the benefit of the mortgagee to the extent of the underpayment.

2-22 SECTION 2. (a) As soon as practicable after the effective  
2-23 date of this Act, the Finance Commission of Texas shall adopt the  
2-24 rules, including the standard payoff statement form, required by  
2-25 Section 343.106, Finance Code, as added by this Act.

2-26 (b) Notwithstanding Section 343.106, Finance Code, as added  
2-27 by this Act, a mortgage servicer is not required to comply with that  
2-28 section before the 90th day after the date the Finance Commission of  
2-29 Texas adopts the rules required by that section.

2-30 SECTION 3. This Act takes effect September 1, 2011.

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