

BILL ANALYSIS

S.B. 1334
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Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties report that an increasing number of Texas families rely on owner-seller financing to purchase their homes. These privately negotiated agreements can vary greatly from one transaction to another, with some sellers including features such as escrow accounts for taxes and insurance while others do not. These parties note that borrowers may encounter a wide range of consequences for late or missed payments that can make their account status confusing and unlike any past experiences with other lenders.

Interested parties note that the federal Real Estate Settlement Procedures Act, enforced by the U.S. Department of Housing and Urban Development, governs escrow accounts but that its application is restricted to large, federally insured loan activity performed by mortgage servicers. These parties assert that when the act does not apply, buyers have no enforceable right to information about their account status with their mortgage lender. As a result, many Texas homebuyers may not know whether taxes and insurance are being paid, how late payments affect their principal balance, or whether an issue with the account has put them at risk of foreclosure. S.B. 1334 seeks to remedy this issue by requiring entities that are not federally regulated that sell real estate to provide a buyer with at least one account statement each year.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1334 amends the Finance Code to require, on or after January 1, 2014, a lender of a seller-financed residential loan that is not a federally related mortgage loan and is secured by a purchase money lien on residential real property that was not the seller's principal residence at the time of sale to provide to the borrower of the loan an accounting statement in January of each year for the term of the loan. The bill requires the accounting statement to be postmarked not later than January 31 if the lender mails the statement to the borrower and to include the following information: the amount paid toward the outstanding balance of the loan during the preceding calendar year, the remaining principal balance owed on the loan, the number of payments remaining on the loan, the amounts paid to taxing authorities on the borrower's behalf if collected by the lender, and the amounts paid to insure the property on the borrower's behalf if collected by the lender.

S.B. 1334 establishes that, in a proceeding related to such a seller-financed residential loan and for purposes of providing the required payoff statement for the loan, a loan payment is considered to have been paid on the due date by the borrower if the payment came due during a calendar year for which the lender did not provide the required accounting statement to the borrower. The bill exempts a violation of its provisions from the application of other statutory provisions relating to penalties and liabilities with respect to loans and financed transactions.

EFFECTIVE DATE

September 1, 2013.