

By: Carter

H.B. No. 2864

A BILL TO BE ENTITLED

AN ACT

relating to requirements for mortgage servicers in connection with loans for the purchase of residential property.

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

SECTION 1. Chapter 343, Finance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. REQUIREMENTS FOR MORTGAGE

SERVICERS OF HOME LOANS

Sec. 343.301. DEFINITION. In this subchapter, "mortgage servicer" has the meaning assigned by Section 51.0001, Property Code.

Sec. 343.302. SINGLE POINT OF CONTACT FOR HOME LOAN INQUIRIES. (a) Not later than the 30th day after the date a mortgage servicer begins servicing a home loan, the mortgage servicer shall provide to the borrower in writing the name and telephone number of a person employed by the mortgage servicer who will serve as the borrower's single point of contact within the mortgage servicer's office with respect to all inquiries related to the home loan.

(b) The person serving as the borrower's point of contact under Subsection (a) shall ensure that the borrower is properly and correctly informed regarding any loan modification plan entered into between the mortgage servicer and the borrower or any other modification of loan terms.

1       Sec. 343.303. NOTICE OF ASSIGNMENT, SALE, OR OTHER TRANSFER  
2 OF LOAN SERVICING. (a) Except as provided by Subsection (d), a  
3 mortgage servicer shall notify the borrower in writing of any  
4 assignment, sale, or other transfer of the servicing of a home loan  
5 to any other person.

6       (b) The notice required by Subsection (a) must contain:

7           (1) the effective date of the transfer;

8           (2) the name, address, and telephone number of the  
9 transferee mortgage servicer;

10          (3) the name and telephone number of an individual  
11 employed by, or the office or department of, the transferor  
12 mortgage servicer that can be contacted by the borrower to answer  
13 inquiries relating to the transfer of servicing;

14          (4) the name and telephone number of an individual  
15 employed by, or the office or department of, the transferee  
16 mortgage servicer that can be contacted by the borrower to answer  
17 inquiries relating to the transfer of servicing; and

18          (5) the date on which the transferor mortgage servicer  
19 who is servicing the mortgage loan before the assignment, sale, or  
20 other transfer will cease to accept payments relating to the loan  
21 and the date on which the transferee mortgage servicer will begin to  
22 accept the payments.

23       (c) A transferor mortgage servicer shall provide the notice  
24 required by Subsection (a) by certified mail, return receipt  
25 requested, not later than the 15th day before the effective date of  
26 the assignment, sale, or other transfer of the servicing of the home  
27 loan.

1       (d) A transferor mortgage servicer or transferee mortgage  
2 servicer is not required to provide notice of an assignment, sale,  
3 or other transfer of the servicing of a home loan as required by  
4 this section if the lender provides to the borrower, at settlement  
5 with respect to the property for the purchase of which the loan is  
6 made, written notice of the assignment, sale, or other transfer of  
7 the servicing of the loan and that notice contains the information  
8 required by Subsection (b).

9       Sec. 343.304. LIABILITY FOR CERTAIN VIOLATIONS UNDER THIS  
10 SUBCHAPTER. (a) A mortgage servicer that violates Section 343.303  
11 is liable to the borrower for:

12             (1) any actual damages to the borrower as a result of  
13 the violation; and

14             (2) any additional damages the court allows, in the  
15 case of a pattern or practice of violations of Section 343.303, in  
16 an amount not to exceed \$2,000.

17       (b) In addition to the amounts awarded under Subsection (a),  
18 a mortgage servicer who is liable under this section is liable for  
19 court costs and reasonable attorney's fees incurred in connection  
20 with the action.

21       SECTION 2. Section 51.002, Property Code, is amended by  
22 adding Subsection (e-1) to read as follows:

23       (e-1) The mortgage servicer shall file an affidavit  
24 described by Subsection (e) and a copy of the certified mail receipt  
25 and signature record for the notice sent to the debtor under  
26 Subsection (d) with the county clerk for recording in the deed  
27 records. A trustee may not exercise a power of sale under this

1 section with respect to real property used as the debtor's  
2 residence unless the affidavit and the certified mail receipt and  
3 signature record are filed under this subsection.

4         SECTION 3. Section 51.002, Property Code, as amended by  
5 this Act, applies only to a sale of residential real property for  
6 which notice of default under that section is provided on or after  
7 the effective date of this Act. A sale in which notice of default is  
8 provided before the effective date of this Act is subject to the law  
9 in effect immediately before that date, and that law is continued in  
10 effect for that purpose.

11         SECTION 4. This Act takes effect January 1, 2014.