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S.B. No. 1995

A BILL TO BE ENTITLED

AN ACT

relating to disclosures in connection with certain wrap mortgage loan transactions; providing a criminal penalty.

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

SECTION 1. Subtitle E, Title 3, Finance Code, is amended by adding Chapter 160 to read as follows:

CHAPTER 160. RESIDENTIAL WRAP MORTGAGE LOAN FINANCING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 160.001. DEFINITIONS. In this chapter:

(1) "Residential mortgage loan" and "residential real estate" have the meanings assigned by Section 180.002.

(2) "Wrap borrower" means a person obligated to pay a wrap mortgage loan.

(3) "Wrap lender" means a person who makes a wrap mortgage loan.

(4) "Wrap mortgage loan" means a residential mortgage loan:

(A) made to finance the purchase of residential real estate that will continue to be subject to an unreleased lien that:

(i) attached to the residential real estate before the loan was made; and

(ii) secures a debt incurred by a person other than the wrap borrower that was not paid off at the time the

1 loan was made; and

2 (B) obligating the wrap borrower to the wrap
3 lender for payment of a debt the principal amount of which includes:

4 (i) the outstanding balance of the debt
5 described by Paragraph (A)(ii); and

6 (ii) any remaining amount of the purchase
7 price financed by the wrap lender.

8 SUBCHAPTER B. DISCLOSURE REQUIREMENTS

9 Sec. 160.051. DISCLOSURE STATEMENT. (a) A wrap lender not
10 otherwise required to provide a written disclosure statement to the
11 wrap borrower under Section 5.016, Property Code, must, on or
12 before the seventh day before the wrap mortgage loan agreement is
13 entered into, provide to the wrap borrower and each holder of a lien
14 described by Section 160.001(4)(A), a separate written disclosure
15 statement in at least 12-point type that contains the information
16 required for a written disclosure statement under Section 5.016,
17 Property Code.

18 (b) Regardless of whether the wrap lender provides a written
19 disclosure statement under Subsection (a) or under Section 5.016,
20 Property Code, the wrap lender's disclosure statement to the wrap
21 borrower must include a statement in a form substantially similar
22 to the following:

23 NOTICE REGARDING PROPERTY INSURANCE: ANY INSURANCE MAINTAINED BY A
24 SELLER, LENDER, OR OTHER PERSON WHO IS NOT THE BUYER OF THIS
25 PROPERTY MAY NOT PROVIDE COVERAGE TO THE BUYER IF THE BUYER SUFFERS
26 A LOSS OR INCURS LIABILITY IN CONNECTION WITH THE PROPERTY. TO
27 ENSURE THE BUYER'S INTERESTS ARE PROTECTED, THE BUYER SHOULD

1 PURCHASE THE BUYER'S OWN PROPERTY INSURANCE. BEFORE PURCHASING
2 THIS PROPERTY, YOU MAY WISH TO CONSULT AN INSURANCE AGENT REGARDING
3 THE INSURANCE COVERAGE AVAILABLE TO YOU AS A BUYER OF THE PROPERTY.

4 Sec. 160.052. RECORD OF DISCLOSURE. A wrap lender must
5 retain a copy of a disclosure statement provided under Section
6 160.051 until the first anniversary of the earliest date on which
7 all liens described by Section 160.001(4)(A) are released.

8 Sec. 160.053. FOREIGN LANGUAGE REQUIREMENT. Regardless of
9 whether the wrap lender provides a written disclosure statement
10 under Section 160.051 or under Section 5.016, Property Code, if the
11 negotiations that precede the execution of the wrap mortgage loan
12 agreement are conducted primarily in a language other than English,
13 the wrap lender shall provide a copy of the required disclosure
14 statement in that language to the wrap borrower.

15 Sec. 160.054. FAILURE TO PROVIDE DISCLOSURE: TOLLING OF
16 LIMITATIONS. If a wrap lender fails to provide the disclosure
17 statement as required by Section 160.051 or fails to provide the
18 disclosure statement in the language required by Section 160.053,
19 the limitations period applicable to any cause of action of the wrap
20 borrower against the wrap lender arising out of the wrap lender's
21 violation of a law of this state in connection with the wrap
22 mortgage loan transaction is tolled until the 120th day after the
23 date the required disclosure statement is provided.

24 Sec. 160.055. FAILURE TO PROVIDE NOTICE: OFFENSE. (a) A
25 wrap lender commits an offense if the wrap lender fails to provide a
26 written disclosure statement under Section 160.051 or Section
27 5.016, Property Code, that meets the requirements of this chapter

1 and Section 5.016, Property Code, as applicable.

2 (b) An offense under this section is a Class A misdemeanor.

3 SECTION 2. Chapter 160, Finance Code, as added by this Act,
4 applies only to a wrap mortgage loan made on or after the effective
5 date of this Act.

6 SECTION 3. This Act takes effect September 1, 2017.