

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1581
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Business & Commerce
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Committee Report (Substituted)

DIGEST AND PURPOSE

C.S.S.B. 1581 adds Section 343 to the Finance Code regarding certain practices in connection with home loans.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4B, Finance Code, by adding Chapter 343, as follows:

CHAPTER 343. HOME LOANS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 343.001. DEFINITIONS. Defines “bridge loan,” “home loan,” and “restructure.”

Sec. 343.002. APPLICABILITY. Provides that this chapter does not apply to a reverse mortgage or an open-end account.

Sec. 343.003. CONFLICT WITH OTHER PROVISIONS OF TITLE. Provides that if this chapter conflicts with another provision of this title, this chapter controls.

[Sections 343.004-343.100 reserved for expansion]

SUBCHAPTER B. PROVISIONS RELATING TO HOME LOANS IN GENERAL

Sec. 343.101. REFINANCING. (a) Sets forth provisions regarding a low-rate home loan.

(b) Prohibits a lender from replacing or consolidating a low-rate home loan directly made by a government or nonprofit lender before the seventh anniversary of the date of the loan unless the new or consolidated loan has a lower interest rate and requires payment of a lesser amount of points and fees than the original loan or is a restructure to avoid foreclosure.

Sec. 343.102. MANDATORY ARBITRATION PROHIBITED. Prohibits a lender from making a loan containing a provision requiring mandatory arbitration.

Sec. 343.103. DISCLOSURE IN CONNECTION WITH CERTAIN HOME LOANS. (a) Requires the lender, for a home loan with an interest rate of 12 percent or greater a year, when the lender makes the disclosure required under the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. Section 2601 et seq.) as amended, for the good faith estimate, or if that Act

des not apply, three business days after the date the application is made, to also provide to the borrower certain information.

(b) Provides that this section expires September 1, 2003.

Sec. 343.104. PENALTIES FOR FAILURE TO PROVIDE DISCLOSURE. (a) Provides that a person who knowingly and wilfully violates Section 343.103 is liable to the aggrieved borrower for certain damages.

(b) Provides that this section expires September 1, 2001.

[Sections 343.105-343.200 reserved for expansion]

SUBCHAPTER C. HIGH-COST HOME LOANS

Sec. 343.201. DEFINITIONS. Defines “high-cost home loan” and “points and fees.”

Sec. 343.202. BALLOON PAYMENT. Prohibits a high-cost home loan from containing a provision for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payment, unless the balloon payments becomes due not less than 60 months after the date of the loan. Provides that this prohibition does not apply if the payment schedule is adjusted to account for the seasonal or otherwise irregular income of the borrower or if the loan is a bridge loan in connection with the acquisition or construction of a dwelling intended to become the borrower’s principal dwelling.

Sec. 343.203. NEGATIVE AMORTIZATION. Prohibits a high-cost home loan from providing for a payment schedule with regular periodic payments that cause the principal balance to increase, except that this section does not prohibit negative amortization as a consequence of a temporary forbearance, bridge loan, or restructure sought by the borrower.

Sec. 343.204. CONSIDERATION OF OBLIGOR’S PAYMENT ABILITY. (a) Defines “oligor.” Provides that if more than one person is obligated to pay a loan, the term refers to those persons collectively.

(b) Prohibits a lender from engaging in a pattern or practice of extending credit to consumers under high-cost home loans based on certain criteria.

Sec. 343.205. PREPAYMENT PENALTIES PROHIBITED. Prohibits a lender from making a high-cost home loan containing a provision for a prepayment penalty.

SECTION 2. (a) Provides that this Act takes effect September 1, 2001 and except as provided by Subsection (b) and (c) of this section, applies only to a loan closed on or after that date.

(b) Provides that Section 343.105, Finance Code, applies only to a loan closed on or after the date that the Texas Department of Insurance approves a product allowing lenders to offer individual or group credit life or credit accident and health insurance complying with that section and certifies that it is available.

(c) Makes application of Section 343.103, Finance Code, prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 1581, Title 4(B), Finance Code, by amending proposed Chapter 343 (HOME LOANS).

SECTION 2. Adds proposed Subsections (b) and (c).