

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 987  
By: Carona  
Jurisprudence  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, Texas law prevents mortgage lenders from preparing loan documents in connection with a loan made to a consumer. The unauthorized practice of law (UPL) statutes provide that only licensed attorneys and licensed real estate brokers can charge or receive a fee for preparing documents affecting title to real property. Even when the mortgage lender does not charge the borrower for preparing the loan documents, Texas courts have determined that it is a violation of the UPL statutes for lenders to prepare loan documents.

As proposed, S.B. 987 authorizes mortgage lenders to prepare loan documents for certain types of loans using standard forms. It authorizes depository institutions to prepare certain loan documents. S.B. 987 limits the authorization to loans documented on standard forms accepted by certain lenders and limits the authorization to first lien mortgages and second lien mortgages for home improvement purposes, and excludes home equity loans. S.B. 987 also authorizes lenders to prepare assignments, releases, or modifications of liens.

### **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 Section 83.001, Government Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides that this section does not apply to a depository institution and its subsidiaries or affiliates or a mortgage banker that performs an act relating to the documentation of a residential mortgage loan by completing certain forms. Makes nonsubstantive changes.

(d) Defines "affiliate," "mortgage banker," and "residential mortgage loan."

SECTION 2. Amends Section 83.002, Government Code, as follows:

Sec. 83.002. EXPENSES. Provides that this chapter does not prevent an attorney or a person described in Section 83.001(b) from paying secretarial, paralegal, or other ordinary and reasonable expenses necessarily and actually incurred by the attorney for the preparation of legal instruments.

SECTION 3. Effective date: upon passage or September 1, 2005.