

BILL ANALYSIS

Senate Research Center
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S.B. 830
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 830 ensures that homebuyers who finance through a non-federally related lender receive annual statements from their lender which include basic information about the status of their loan.

Some Texas families, instead of going through traditional banks or credit unions, chose to finance their homes through small lenders who self-finance the mortgage. Many of these non-federally related lenders do not provide the most basic information to borrowers, including the amount paid in the previous year that went to principal and interest, or the amount remaining on the loan. Without proof of payment, conflicts could easily emerge between lender and borrower over payments paid or not paid. In the serious case of a lender perpetrating some mortgage fraud, the borrower may have no proof of their loss of mortgage payments.

S.B. 830 requires that non-federally related lenders provide annual statements to the borrower containing the amount of each payment received, how each payment was to either principal or interest, any fee or other charge assessed against the borrower, and the outstanding balance of the borrower's principal.

A borrower injured by violation of the bill's provisions may obtain an order from a court requiring compliance and recover actual damages and \$100 for each violation plus attorney's fees.

As proposed, S.B. 830 amends current law relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.

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 5, Finance Code, by adding Chapter 397, as follows:

CHAPTER 397. ACCOUNTING STATEMENTS FOR CERTAIN HOME LOANS REQUIRED

Sec. 397.001. DEFINITION. Defines "mortgage servicer."

Sec. 397.002. APPLICABILITY OF CHAPTER. Provides that this chapter applies only to a loan secured by a first or subordinate lien on residential real property that is not a federally related mortgage loan, as defined by 12 U.S.C. Section 2602; a loan that is made by a credit union regulated by the Texas Credit Union Department; or a loan that is primarily for business, commercial, or agricultural purposes, or for temporary financing, such as a construction loan, as referred to under 12 U.S.C. Section 2602.

Sec. 397.003. ANNUAL ACCOUNTING STATEMENT. Requires a mortgage servicer to provide to the borrower an annual statement in January of each year for the term of the

loan. Requires the statement to clearly and conspicuously state certain information relating to received payments and the outstanding balance of the loan.

Sec. 397.004. ACTION BY BORROWER. (a) Authorizes a borrower injured by a violation of this chapter, in addition to any other legal and equitable remedy available, to bring an action to obtain an order requiring compliance with this chapter and to recover certain damages.

(b) Authorizes a borrower who prevails in an action under this section to recover reasonable attorney's fees.

SECTION 2. Effective date: September 1, 2017.