

By: Rodríguez

S.B. No. 830

A BILL TO BE ENTITLED

AN ACT

relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.

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

SECTION 1. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. ACCOUNTING STATEMENTS FOR CERTAIN HOME LOANS REQUIRED

Sec. 397.001. DEFINITION. In this chapter, "mortgage servicer" has the meaning assigned by Section 51.0001, Property Code.

Sec. 397.002. APPLICABILITY OF CHAPTER. This chapter applies only to a loan secured by a first or subordinate lien on residential real property that is not:

(1) a federally related mortgage loan, as defined by 12 U.S.C. Section 2602;

(2) a loan that is made by a credit union regulated by the Credit Union Department;

(3) 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; or

(4) a loan that is directly financed and serviced by a relative within the second degree of consanguinity or affinity of the borrower.

1       Sec. 397.003. ANNUAL ACCOUNTING STATEMENT. (a) A mortgage  
2 servicer shall provide to the borrower an annual statement in  
3 January of each year for the term of the loan. The statement must be  
4 provided by mail, postmarked on or before January 31, and sent to  
5 the borrower at the borrower's last known address.

6       (b) The statement required by Subsection (a) must clearly  
7 and conspicuously state the following information:

8           (1) the amount of each payment that was received by the  
9 mortgage servicer as payment toward the loan during the preceding  
10 calendar year;

11           (2) how each payment described by Subdivision (1) was  
12 applied to the borrower's account, including information showing  
13 the amount of each payment that was applied to:

14                   (A) the borrower's principal obligation under  
15 the loan;

16                   (B) the interest charged on the loan;

17                   (C) any escrow account associated with the loan;

18 and

19                   (D) any fee or other charge assessed against the  
20 borrower during the preceding calendar year; and

21           (3) the outstanding balance of the borrower's  
22 principal obligation under the loan.

23       Sec. 397.004. RECOURSE OF BORROWER FOR MORTGAGE SERVICER'S  
24 FAILURE TO TIMELY PROVIDE STATEMENT; LIABILITY OF MORTGAGE  
25 SERVICER. (a) If a borrower does not receive an annual statement  
26 within the time prescribed by Section 397.003(a), the borrower may  
27 request the statement from the mortgage servicer by sending a

1 request to that effect to the mortgage servicer by certified mail,  
2 return receipt requested.

3 (b) Except as provided by Subsection (c), if, after  
4 receiving a request under Subsection (a), the mortgage servicer  
5 fails to provide the statement to the borrower on or before the 25th  
6 day after the date the mortgage servicer receives the request:

7 (1) the borrower is not liable for any payment, fees,  
8 or other charges not made during the year to which the annual  
9 statement relates and is considered to have paid all payments,  
10 fees, or other charges owed under the loan relating to that year, on  
11 time, and in accordance with the terms of the loan agreement; and

12 (2) if the mortgagee is not the mortgage servicer, the  
13 mortgage servicer is liable for paying the mortgagee:

14 (A) any amount for which the borrower is no  
15 longer liable under Subdivision (1); and

16 (B) any fee or other charge assessed against the  
17 borrower by the mortgagee as a result of, or consequential damages  
18 arising out of, the mortgage servicer's failure to comply with this  
19 section.

20 (c) Subsection (b) does not apply if, before the borrower  
21 requests an annual statement under this section, the mortgage  
22 servicer sends a default notice to the borrower at the borrower's  
23 last known address by certified mail, return receipt requested.

24 SECTION 2. This Act takes effect September 1, 2017.