S.B. No. 830

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

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

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

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

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

(B) the interest charged on the loan;

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

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

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

Sec. 397.004. RECREUSE OF BORROWER FOR MORTGAGE SERVICER'S FAILURE TO TIMELY PROVIDE STATEMENT; LIABILITY OF MORTGAGE SERVICER. (a) If a borrower does not receive an annual statement within the time prescribed by Section 397.003(a), the borrower may request the statement from the mortgage servicer by sending a
request to that effect to the mortgage servicer by certified mail, return receipt requested.

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

(1) the borrower is not liable for any fees, penalties, or late charges, or any other amounts except for any principal and interest that may be due for the preceding calendar year; and

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

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

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

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

SECTION 2. This Act takes effect September 1, 2017.
I hereby certify that S.B. No. 830 passed the Senate on May 10, 2017, by the following vote: Yeas 24, Nays 5, one present not voting; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 25, Nays 5, one present not voting.

I hereby certify that S.B. No. 830 passed the House, with amendment, on May 23, 2017, by the following vote: Yeas 96, Nays 51, two present not voting.

Approved:

Date

Governor
TO ALL TO WHOM THESE PRESENTS SHALL COME:

Pursuant to Article IV, Section 14, of the Texas Constitution, I, Greg Abbott, Governor of Texas, do hereby disapprove of and veto Senate Bill No. 830 as passed by the Eighty-Fifth Texas Legislature, Regular Session, because of the following objections:

Senate Bill 830 imposes burdensome new regulatory and paperwork requirements on those who offer seller-financed mortgages. This sort of regulation could increase the price and reduce the availability of these mortgages.

Since the Eighty-Fifth Texas Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing these objections in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 15th day of June, 2017.

GREG ABBOTT
Governor of Texas

ATTESTED BY:

ROLANDO B. PABLOS
Secretary of State
TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB830 by Rodriguez (Relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.), As Passed 2nd House

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner, 469 Credit Union Department

LBB Staff: UP, EK, CL, EH
TO: Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB830 by Rodríguez (Relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.), Committee Report 1st House, Substituted

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FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB830 by Rodriguez (Relating to the provision of accounting statements by mortgage servicers for certain loans secured by a lien on residential real property.), As Introduced

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