

SUBJECT: Providing mortgage loan borrowers with annual financial statements

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 6 ayes — Parker, Stephenson, Burrows, Dean, Holland, Longoria

0 nays

1 absent — E. Johnson

SENATE VOTE: On final passage, May 10 — 24-5-1 (Burton, Campbell, Creighton, Huffines, Hughes, nay; V. Taylor, present, not voting)

WITNESSES: *On House companion bill, HB 993:*

For — Trish McAllister, Texas Access to Justice Commission; Robert Doggett; (*Registered, but did not testify:* Brian Engel, Barrett Daffin Frappier Turner & Engel, LLP; John Fleming, Texas Mortgage Bankers Association; Nate Walker, Texas Low Income Housing Information Service)

Against — Anthony Gray, Texas Land Developers' Association; (*Registered, but did not testify:* Chuck Rice, Texas Land Developers Association)

On — Caroline Jones, Department of Savings and Mortgage Lending

DIGEST: SB 830 would require mortgage servicers to provide borrowers with an annual statement for the duration of a loan. Statements would have to be postmarked on or before January 31 and sent by mail to the borrower's last known address. They would have to clearly state:

- the amount of each payment received toward the loan by the mortgage servicer during the last calendar year;
- how each payment was applied to the borrower's account, including the amount applied toward the borrower's principal obligation, interest charged, escrow account, and fees assessed; and

- the outstanding balance of the borrower's principal obligation.

The bill would allow borrowers who did not receive the annual statement to send a request for it from their mortgage servicer by certified mail. If the servicer failed to comply within 25 days of receiving the request and had not sent a default notice to the borrower's last known address, the borrower would be excused from liability for all payments, fees, or other charges owed under the loan during the year to which the annual statement was related. If the mortgagee was not the mortgage servicer, the servicer would be liable for making these payments.

SB 830 would apply only to a loan secured by a lien on residential real property and would not apply to a loan:

- that was a federally related mortgage loan;
- made by a Credit Union Department-regulated credit union;
- primarily for business, commercial, or agricultural purposes;
- primarily for temporary financing; or
- directly financed and serviced by a relative within the second degree of consanguinity or affinity of the borrower.

The bill would take effect September 1, 2017.

SUPPORTERS SAY: SB 830 would ensure that mortgage loan borrowers were informed of how their payments were distributed throughout their account. Sometimes borrowers who do not receive regular breakdowns of repayment distributions assume the whole of their payments is applied to the principal and interest and are unaware that a portion was used to fund escrow accounts or various other fees and charges. Providing clarity to borrowers would save time and money for both lenders and borrowers by reducing miscommunications, ambiguities, and legal disputes.

The bill would ensure fairness in the mortgage loan industry by ensuring that borrowers who made payments on non-federally related loans had access to the same financial information that federal law affords to borrowers making payments on federally related loans. Small-seller

transactions disproportionately impact low-income Texans, so providing equal access to information is especially important.

The bill would not overburden mortgage service providers and would not require the statements to be sent by certified mail. Service providers already should maintain this information, so the bill only would result in minimal mailing costs.

OPPONENTS SAY: SB 830 would burden mortgage service providers by instituting costly requirements. Servicers likely would send each statement by certified mail to ensure the borrower received it, accumulating a significant overall cost.

NOTES: A companion bill, HB 993 by Walle, was considered in a public hearing of the House Committee on Investments and Financial Services on March 21 and left pending.