

BILL ANALYSIS

Senate Research Center

S.B. 1431
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In a typical mortgage, part of the borrower's monthly payment is placed in escrow to cover property taxes. The amount placed in escrow is based on an estimate of what the property tax liability is likely to be. That estimate in turn may be based on the most recent year's appraised value of the property as shown in the records of the county appraisal district, together with the tax rates applied by any taxing authorities within whose districts the property is situated. An apparently common problem can occur in the case of new home sales. In these cases, the most recent appraised value of the property is the appraised value of a bare lot. That is, the most recent appraisal does not reflect the presence on the property of the dwelling itself. Of course, the home constitutes a significant improvement that dramatically increases the appraised value of the property. Depending on the timing of the purchase, a home buyer in this situation can make mortgage payments for nearly a year before learning that the amount paid into escrow has been woefully inadequate to cover the tax liability. Not only is the buyer confronted with an immediate, lump-sum expense not previously budgeted for, but the buyer also must revise his or her prospective budget to account for the now much higher monthly amount that will be required to be paid into escrow to reflect the new appraised value of the property. Current state law, however, contains no provision specifying the method by which an amount paid into escrow for tax purposes must be calculated.

To address this problem, S.B. 1431 would require that, with respect to a home loan secured by real property on which a new dwelling has been constructed, if an escrow account is created, the lender or mortgage servicer, as applicable, must make a good faith effort to determine the amount the borrower is required to pay into the account based on all available evidence, including recent improvements to the property, of what will be reasonably necessary to cover the property taxes. The bill does not create a cause of action and does not create a basis on which to challenge a security interest.

As proposed, S.B. 1431 amends current law relating to escrow payments for a loan secured by a new dwelling.

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 Subchapter B, Chapter 343, Finance Code, by adding Section 343.107, as follows:

Sec. 343.107. DETERMINATION OF INITIAL AMOUNT OF ESCROW PAYMENTS ON LOAN SECURED BY NEW DWELLING. (a) Defines "mortgage servicer."

(b) Provides that this section applies only to a home loan secured by real property on which a dwelling has been constructed that is not included on the appraisal roll of the appraisal district that appraises the property for ad valorem tax purposes because the dwelling is a new improvement.

(c) Requires the lender or mortgage servicer, subject to 12 C.F.R. Section 1024.17, if an escrow account is created from the home loan, to make a good-faith effort to ensure that the amount the borrower is initially required to pay into the escrow account for purpose of payment of the ad valorem taxes imposed on the property is reasonably likely to be sufficient to pay the taxes based on all available evidence, including the probable effect of the newly constructed dwelling on the appraised value, and the market value of comparable improved residential properties in the market area as determined by the appraisal districts that appraise those properties for ad valorem tax purposes as applicable.

(d) Provides that a lender or mortgage servicer's failure to ensure that the amount paid into escrow is sufficient to pay the taxes as described by Subsection (c) does not affect the lender or mortgage servicer's security interest in the real property that secures the home loan.

(e) Provides that this section does not create a cause of action.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2017.