

Mortgage Payoff Statements

This Act requires the state finance commission to adopt rules governing requests by title insurance companies for payoff information from mortgage servicers related to home loans and the provision of that information, including rules prescribing a standard payoff statement form that must be used by mortgage servicers to provide those payoff statements. The Act requires the finance commission to prescribe a standard payoff statement form and requires a mortgage servicer who receives a request for a payoff statement from a title insurance company to deliver the requested payoff statement within a time specified by the finance commission, which must allow the mortgage servicer at least seven business days after the date the request is received to deliver the payoff statement. It prohibits a mortgage servicer or mortgagee, with certain exceptions, from demanding that a mortgagor pay an amount in excess of the payoff amount specified in the payoff statement.

Submitted as:

Texas

[HB 558 \(Enrolled version\)](#)

Status: Enacted into law in 2011.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act Relating to Payoff Statements
2 Provided in Connection with Certain Home Loans.”

3
4 Section 2. [*Payoff Statements.*]

5 (A) In this section, “mortgagee,” “mortgage servicer,” and “mortgagor” have the meanings
6 assigned by [insert citation.]

7 (B) The [finance commission] as defined under [insert citation] shall adopt rules governing
8 requests by title insurance companies for payoff information from mortgage servicers related to
9 home loans and the provision of that information, including rules prescribing a standard payoff
10 statement form that must be used by mortgage servicers to provide those payoff statements.

11 (C) In this section, requests by title insurance companies for payoff information from
12 mortgage servicers related to home loans and the provision of that information, including rules
13 prescribing a standard payoff statement form that must be used by mortgage servicers to provide
14 those payoff statements.

15 (D) In adopting rules under Subsection (B), the [finance commission] shall require a
16 mortgage servicer who receives a request for a payoff statement with respect to a home loan from a
17 title insurance company to deliver the requested payoff statement on the prescribed form within a
18 time specified by [finance commission] rule, which must allow the mortgage servicer at least [seven
19 business days] after the date the request is received to deliver the payoff statement.

20 (E) The standard payoff statement form prescribed by the [finance commission] under
21 Subsection (B) must require that a completed form state the proposed closing date for the sale and
22 conveyance of the real property securing the home loan or for any other transaction that would
23 involve the payoff of the home loan, as specified by the title insurance company’s request; and
24 provide a payoff amount that is valid through that date.

25 (F) Except as provided by Subsection (F) or (G), if the mortgage servicer provides a
26 completed payoff statement form that meets the requirements of this section and rules adopted under

1 this section in response to a request for a payoff statement, the mortgage servicer or mortgagee may
2 not, on or before the proposed closing date, demand that a mortgagor pay an amount in excess of the
3 payoff amount specified in the payoff statement.

4 (F) If a mortgage servicer or mortgagee discovers that a payoff statement is incorrect, the
5 mortgage servicer or mortgagee may correct and deliver the statement on or before the second
6 business day before the specified proposed closing date. The corrected payoff statement must be
7 delivered to the requestor by certified mail with return receipt requested and electronic means, if the
8 requestor provides the mortgage servicer with a means to deliver the corrected statement
9 electronically.

10 (G) If a mortgage servicer submits an incorrect payoff statement to a title insurance company
11 that results in the mortgage servicer requesting an amount that is less than the correct payoff amount,
12 the mortgage servicer or mortgagee does not deliver a corrected payoff statement in accordance with
13 Subsection (F), and the mortgage servicer receives payment in the amount specified in the payoff
14 statement:

15 (1) The difference between the amount included in the payoff statement and the
16 correct payoff amount remains a liability of the former mortgagor owed to the mortgagee; and

17 (2) if the payoff statement is in connection with the sale of the real property:

18 (i) the deed of trust or other contract lien securing an interest in the property is
19 released;

20 (ii) within a reasonable time after receipt of payment by the mortgagee or
21 mortgage servicer, the mortgagee or mortgage servicer, as applicable, shall deliver to the title
22 company a release of the deed of trust or other contract lien securing an interest in the property; and

23 (iii) any proceeds disbursed at closing to or for the benefit of the mortgagor,
24 excluding closing costs related to the transaction, are subject to a constructive trust for the benefit of
25 the mortgagee to the extent of the underpayment; or

26 (B) a refinance by the mortgagor of the existing home loan:

27 (i) the lien securing the existing home loan becomes subordinate to the
28 lien securing the new home loan; and

29 (ii) any proceeds disbursed at closing to or for the benefit of the
30 mortgagor, excluding closing costs related to the transaction, are subject to a constructive trust for
31 the benefit of the mortgagee to the extent of the underpayment.

32 (H) As soon as practicable after the effective date of this Act, the [finance commission] shall
33 adopt the rules, including the standard payoff statement form, required by this Act.

34 (I) A mortgage servicer is not required to comply with that section before the 90th day after
35 the date the [finance commission] the rules required by this Act.

36
37 Section 3. [*Severability.*] Insert severability clause.

38
39 Section 4. [*Repealer.*] Insert repealer clause.

40
41 Section 5. [*Effective Date.*] Insert effective date.