

FINANCE CODE  
CHAPTER 343. HOME LOANS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 343.001. DEFINITIONS. In this chapter:

(1) "Bridge loan" means temporary or short-term financing requiring payment of only interest until the entire unpaid balance is due.

(2) "Home loan" means a loan that is:

(A) made to one or more individuals for personal, family, or household purposes; and

(B) secured in whole or part by:

(i) a manufactured home, as defined by Section 347.002, used or to be used as the borrower's principal residence; or

(ii) real property improved by a dwelling designed for occupancy by four or fewer families and used or to be used as the borrower's principal residence.

(3) "Restructure" means a change in the payment schedule or other terms of a home loan as a result of the borrower's default.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.002. APPLICABILITY. This chapter does not apply to:

(1) a reverse mortgage; or

(2) an open-end account, as defined by Section 301.002.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.003. CONFLICT WITH OTHER PROVISIONS OF TITLE. If this chapter conflicts with another provision of this title, this chapter controls.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. PROVISIONS RELATING TO HOME LOANS IN GENERAL

Sec. 343.101. REFINANCING. (a) For purposes of this section, a low-rate home loan is a home loan that at its inception carries an interest rate two percentage points or more below the yield on treasury securities having comparable periods of maturity to the loan maturity, except that if the loan's interest rate is a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped-up rate, as appropriate, shall be used instead of the rate at the loan's inception to determine whether the loan is a low-rate loan.

(b) A lender may not replace or consolidate a low-rate home loan directly made by a government or nonprofit lender before the seventh anniversary of the date of the loan unless the new or consolidated loan has a lower interest rate and requires payment of a lesser amount of points and fees than the original loan or is a restructure to avoid foreclosure.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.104. RESTRICTIONS ON SINGLE PREMIUM CREDIT INSURANCE. A lender may not offer any individual or group credit life, disability, or unemployment insurance on a prepaid single premium basis in conjunction with a home loan unless the following notice is provided to each applicant for the loan by hand delivery or mail to the applicant not later than the third business day after the date the applicant's application for a home loan is received:

INSURANCE NOTICE TO APPLICANT

You may elect to purchase credit life, disability, or involuntary unemployment insurance in conjunction with this mortgage loan. If you elect to purchase this insurance coverage, you may pay for it either on a monthly premium basis or with a single premium payment at the time the lender closes this loan. If you choose the single premium payment, the cost of the premium will be financed at the interest rate provided for in the mortgage loan.

This insurance is NOT required as a condition of closing the mortgage loan and will be included with the loan only at your request.

You have the right to cancel this credit insurance once purchased. If you cancel it within 30 days of the date of your loan, you will receive either a full refund or a credit against your loan account. If you cancel this insurance at any other time, you will receive either a refund or credit against your loan account of any unearned premium. YOU MUST CANCEL WITHIN 30 DAYS OF

THE DATE OF THE LOAN TO RECEIVE A FULL REFUND OR CREDIT.

To assist you in making an informed choice, the following estimates of premiums are being provided along with an example of the cost of financing. The examples assume that the term of the insurance product is \_\_\_\_ years and that the interest rate is \_\_\_\_\_ percent (a rate that has recently been available for the type of loan you are seeking). PLEASE NOTE THAT THE ACTUAL LOAN TERMS YOU QUALIFY FOR MAY VARY FROM THIS EXAMPLE. "Total amount paid" is the amount that would be paid if you financed only the total insurance premium for a \_\_\_\_ year period and is equal to the amount you would have paid if you made all scheduled payments. This is NOT the total of payments on your loan.

CREDIT LIFE INSURANCE: Estimated premium of \$\_\_\_\_\_

DISABILITY INSURANCE: Estimated premium of \$\_\_\_\_\_

INVOLUNTARY UNEMPLOYMENT INSURANCE: Estimated premium of \$\_\_\_\_\_

TOTAL INSURANCE PREMIUMS: \$\_\_\_\_\_

TOTAL AMOUNT PAID: \$\_\_\_\_\_

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.105. NOTICE OF PENALTIES FOR MAKING FALSE OR MISLEADING WRITTEN STATEMENT. (a) A lender, mortgage banker, or licensed mortgage broker shall provide to each applicant for a home loan a written notice at closing.

(b) The notice must:

(1) be provided on a separate document;

(2) be in at least 14-point type; and

(3) have the following or substantially similar

language:

"Warning: Intentionally or knowingly making a materially false or misleading written statement to obtain property or credit, including a mortgage loan, is a violation of Section 32.32, Texas Penal Code, and, depending on the amount of the loan or value of the property, is punishable by imprisonment for a term of 2 years to 99 years and a fine not to exceed \$10,000.

"I/we, the undersigned home loan applicant(s), represent that I/we have received, read, and understand this notice of penalties for making a materially false or misleading written statement to obtain a home loan.

"I/we represent that all statements and representations contained in my/our written home loan application, including statements or representations regarding my/our identity, employment, annual income, and intent to occupy the residential real property secured by the home loan, are true and correct as of the date of loan closing."

(c) On receipt of the notice, the loan applicant shall verify the information and execute the notice.

(d) The failure of a lender, mortgage banker, or licensed mortgage broker to provide a notice complying with this section to each applicant for a home loan does not affect the validity or enforceability of the home loan by any holder of the loan.

Added by Acts 2007, 80th Leg., R.S., Ch. 285, Sec. 1, eff. September 1, 2007.

#### SUBCHAPTER C. HIGH-COST HOME LOANS

Sec. 343.201. DEFINITIONS. In this subchapter:

(1) "High-cost home loan" means a loan that:

(A) is made to one or more individuals for personal, family, or household purposes;

(B) is secured in whole or part by:

(i) a manufactured home, as defined by Section 347.002, used or to be used as the borrower's principal residence; or

(ii) real property improved by a dwelling designed for occupancy by four or fewer families and used or to be used as the borrower's principal residence;

(C) has a principal amount equal to or less than one-half of the maximum conventional loan amount for first mortgages as established and adjusted by the Federal National Mortgage Association;

(D) is not:

(i) a reverse mortgage; or

(ii) an open-end account, as defined by Section 301.002; and

(E) is a credit transaction described by 12 C.F.R. Section 226.32, as amended, except that the term includes a residential mortgage transaction, as defined by 12 C.F.R. Section 226.2, as amended, if the total loan amount is \$20,000 or more and:

(i) the annual percentage rate exceeds the rate indicated in 12 C.F.R. Section 226.32(a)(1)(i), as amended; or

(ii) the total points and fees payable by the consumer at or before loan closing will exceed the amount indicated in 12 C.F.R. Section 226.32(a)(1)(ii), as amended.

(2) "Points and fees" has the meaning assigned by 12 C.F.R. Section 226.32(b), as amended.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.202. BALLOON PAYMENT. A high-cost home loan may not contain a provision for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments, unless the balloon payment becomes due not less than 60 months after the date of the loan. This prohibition does not apply if the payment schedule is adjusted to account for the seasonal or otherwise irregular income of the borrower or if the loan is a bridge loan in connection with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.203. NEGATIVE AMORTIZATION. A high-cost home loan may not provide for a payment schedule with regular periodic payments that cause the principal balance to increase, except that this section does not prohibit negative amortization as a consequence of a temporary forbearance, bridge loan, or restructure sought by the borrower.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.204. CONSIDERATION OF OBLIGOR'S PAYMENT ABILITY.

(a) In this section, "obligor" means a person obligated to pay a loan, including a borrower, cosigner, or guarantor. If more than one person is obligated to pay a loan, the term refers to those persons collectively.

(b) A lender may not engage in a pattern or practice of extending credit to consumers under high-cost home loans based on the consumers' collateral without regard to the obligor's repayment ability, including the obligor's current and expected income, current obligations, employment status, and other financial resources, other than the obligor's equity in the dwelling that secures repayment of the loan.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.205. PREPAYMENT PENALTIES PROHIBITED. A lender may not make a high-cost home loan containing a provision for a prepayment penalty.

Added by Acts 2001, 77th Leg., ch. 622, Sec. 1, eff. Sept. 1, 2001.

Sec. 343.206. CHARGE PROHIBITED FOR PRODUCT OR SERVICE NOT RECEIVED. A lender, in connection with a high-cost home loan, may not charge a borrower an amount for a service or product if the borrower does not receive the service or product.

Added by Acts 2003, 78th Leg., ch. 1207, Sec. 3, eff. Sept. 13, 2003.