

## **BILL ANALYSIS**

C.S.H.B. 831  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

There is concern that current law does not outline a procedure for a surviving spouse who was not named to, or a party to, a home mortgage loan of the deceased spouse to obtain information regarding the loan from the mortgage loan servicer. Interested parties assert that some mortgage companies are requiring a form of judicial action for the surviving spouse to obtain basic information regarding a home mortgage loan held in the name of the deceased spouse, which can prove costly and time-consuming for the surviving spouse. C.S.H.B. 831 seeks to remedy this issue with respect to a surviving spouse who is not listed on home mortgage documentation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 831 amends the Finance Code to require a mortgage servicer of a home loan, not later than the 30th day after the mortgage servicer receives a request for information from the surviving spouse of a mortgagor of the home loan that includes a required disclosure notice and is accompanied by required proof of the surviving spouse's status, to provide the surviving spouse with information that the mortgagor would have received in a standard monthly statement, including the current balance information, whether the loan is current and any amounts that are delinquent, any loan number, and the amount of any escrow deposit for taxes and insurance purposes. The bill sets out the information required to be submitted as proof of the surviving spouse's status and grants a mortgage servicer that provides the required information to the surviving spouse immunity from liability to the estate of the mortgagor or any heir or beneficiary of the mortgagor.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 831 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter B, Chapter 343, Finance Code, is amended by adding Section 343.103 to read as follows:

Sec. 343.103. DISCLOSURE OF MORTGAGE INFORMATION TO SURVIVING SPOUSE. (a) In this section, "mortgage servicer" and "mortgagor" have the meanings assigned by Section 51.0001, Property Code.

(b) Not later than the 30th day after a mortgage servicer of a home loan receives a request for the information from the surviving spouse of a mortgagor of the home loan, accompanied by the proof required under Subsection (c), the mortgage servicer shall provide the surviving spouse with information including:

- (1) documentation regarding the promissory note;
- (2) balance information; and
- (3) other information the mortgage servicer provided to the mortgagor.

(c) A surviving spouse must prove the person's status by providing:

- (1) a death certificate of the mortgagor; and
- (2) an affidavit stating the surviving spouse was married to the mortgagor at the time of the mortgagor's death.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 343, Finance Code, is amended by adding Section 343.103 to read as follows:

Sec. 343.103. DISCLOSURE OF MORTGAGE INFORMATION TO SURVIVING SPOUSE. (a) In this section: (1) "Estate" has the meaning assigned by Section 22.012, Estates Code. (2) "Heir" has the meaning assigned by Section 22.015, Estates Code. (3) "Mortgage servicer" and "mortgagor" have the meanings assigned by Section 51.0001, Property Code.

(b) Not later than the 30th day after a mortgage servicer of a home loan receives a request for the information from the surviving spouse of a mortgagor of the home loan, accompanied by the proof required under Subsection (c), the mortgage servicer shall provide the surviving spouse with information that the mortgagor would have received in a standard monthly statement, including:

- (1) the current balance information, including the due dates and the amount of any installments;
- (2) whether the loan is current and any amounts that are delinquent;
- (3) any loan number; and
- (4) the amount of any escrow deposit for taxes and insurance purposes.

(c) A surviving spouse must prove the person's status by providing:

- (1) a death certificate of the mortgagor;
- (2) an affidavit of disinterested witnesses that is in the form referenced in Section 203.002, Estates Code, including language stating that the surviving spouse was married to the mortgagor at the time of the mortgagor's death; and
- (3) an affidavit signed by the surviving spouse stating that the surviving spouse is currently residing in the underlying mortgaged property as the primary residence.

(d) The request from the surviving spouse must also include a notice to the mortgage servicer that states in bold-faced, capital, or underlined letters: "THIS REQUEST IS MADE PURSUANT TO TEXAS

FINANCE CODE SECTION 343.103. SUBSEQUENT DISCLOSURE OF INFORMATION IS NOT IN CONFLICT WITH THE GRAMM-LEACH-BLILEY ACT UNDER 15 U.S.C. SECTION 6802(e)(8)."

No equivalent provision.

(e) A mortgage servicer that provides the information as required under this section is not liable to the estate of the mortgagor or any heir or beneficiary of the mortgagor.

SECTION 2. This Act takes effect September 1, 2015.

SECTION 2. Same as introduced version.