

## **BILL ANALYSIS**

C.S.S.B. 1823  
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Pensions, Investments & Financial Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that there is a need to implement certain regulatory improvements and clarifications in the law regarding state-chartered banks and trust companies, including as the law relates to third-party service providers. C.S.S.B. 1823 seeks to provide for those improvements and clarifications by enhancing confidentiality of investigatory subpoenas, clarifying the regulatory jurisdiction and authority of the banking commissioner, and narrowing exemptions from regulatory review of certain bank acquisitions.

### **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.S.B. 1823 amends the Finance Code to include in the definition of "third-party service provider" under the Texas Banking Act and the Texas Trust Company Act, as applicable, a person who regularly engages in the practice of assembling or evaluating, and maintaining, public record information and credit account information from persons who furnish that information regularly and in the ordinary course of business for the purpose of furnishing to third parties reports indicating a person's creditworthiness, credit standing, or credit capacity. The bill authorizes a subpoena issued for purposes of the required annual examination by the banking commissioner of each state bank or each state trust company or an investigation of unauthorized activity by a bank or trust company to provide that the person to whom the subpoena is directed or any person who receives the subpoena is prohibited from:

- disclosing that the subpoena has been issued;
- disclosing or describing any records requested in the subpoena;
- disclosing whether records have been furnished in response to the subpoena; or
- if applicable, disclosing or describing any examination of the person under oath, including the questions asked, the testimony given, or the transcript produced.

The bill establishes that a subpoena may prohibit those disclosures only if the commissioner finds, and the subpoena states, that the subpoena, the examination, or the records relate to an ongoing investigation and the disclosure could significantly impede or jeopardize the investigation. Subject to that limitation on disclosure, the information may be disclosed to the extent that such disclosure is necessary to locate and produce responsive records or obtain legal representation.

C.S.S.B. 1823 subjects a third-party service provider to an enforcement action under the Texas Banking Act or the Texas Trust Company Act, as applicable, if the provider refuses to submit to examination by the commissioner or to pay an assessed fee for the examination. The bill authorizes the commissioner to notify all state banks or state trust companies of any such refusal and warn that continued use of the third-party service provider may constitute an unsafe and unsound banking or fiduciary practice.

C.S.S.B. 1823 conditions the exemption from certain transfer of ownership interest requirements without prior written approval of the commissioner for a transaction relating to the acquisition of bank holding companies on:

- the acquiring bank holding company currently owning and controlling a state bank; or
- the post-transaction controlling person having previously complied with and received approval as a controlling person or being identified as the controlling person in a merger or other acquisition-related application filed with the commissioner concurrently with the required submission.

The bill removes the minimum administrative penalty imposed by the commissioner on a bank, trust company, or other person for a violation under the Texas Banking Act or the Texas Trust Company Act, as applicable.

#### **EFFECTIVE DATE**

September 1, 2019.

#### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1823 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute revises the definition of "third-party service provider" relating to who is a credit reporting agency.