

BILL ANALYSIS

Senate Research Center

H.B. 831
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. H.B. 831 seeks to remedy this issue with respect to a surviving spouse who is not listed on home mortgage documentation.

H.B. 831 amends current law relating to disclosure of home mortgage information to a surviving spouse.

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 343.103, as follows:

Sec. 343.103. DISCLOSURE OF MORTGAGE INFORMATION TO SURVIVING SPOUSE. (a) Defines "estate," "heir," "mortgage servicer," and "mortgagor."

(b) Requires the mortgage servicer, 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), to 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) Requires a surviving spouse to 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 (Form of Affidavit Concerning Identity of Heirs), 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) Requires that the request from the surviving spouse also include a certain notice to the mortgage servicer that makes a certain statement in bold-faced, capital, or underlined letters and sets forth the notice.

(e) Provides that 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 as a result of providing this information to the surviving spouse.

SECTION 2. Effective date: September 1, 2015.