

## **BILL ANALYSIS**

Senate Research Center  
85R5939 CLG-F

H.B. 2823  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Prior to 2011, the Department of Savings and Mortgage Lending's (SML's) regulatory authority with respect to the mortgage industry was exclusively over residential mortgage loan companies, mortgage bankers, and residential mortgage loan originators as found respectively in Chapters 156, 157, and 180, Finance Code. In 2011, with the passage of the Residential Mortgage Loan Servicer Registration Act, Chapter 158, Finance Code, SML's regulatory oversight expanded by providing for the registration of non-depository third party residential mortgage loan servicers as a response to increased concerns over mortgage servicing complaints and issues with foreclosures around the country.

SML presently has the statutory obligation to investigate complaints filed against persons licensed or registered under Chapters 156, and 157, Finance Code, to determine whether the actions of that person constitute a violation of the Finance Code and other applicable federal and state laws. In the furtherance of an investigation under Chapters 156 and 157, Finance Code, SML has the authority to issue and enforce a subpoena.

SML also has the responsibility to investigate residential mortgage loan servicers under Chapter 158, Finance Code, but lacks the authority to issue and enforce a subpoena in furtherance of an investigation.

H.B. 2823 amends Chapter 158, Finance Code, by providing SML with the authority to issue and enforce a subpoena during an investigation into a residential mortgage loan servicer.

H.B. 2823 amends current law relating to the issuance and enforcement of a subpoena during the course of an investigation of a residential mortgage loan servicer.

### **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 C, Chapter 158, Finance Code, by adding Section 158.1045, as follows:

Sec. 158.1045. ISSUANCE AND ENFORCEMENT OF SUBPOENA. (a) Authorizes the savings and mortgage lending commissioner (commissioner), during an investigation, to issue a subpoena that is addressed to a peace officer of this state or other person authorized by law to serve citation or perfect service. Authorizes the subpoena to require a person to give a deposition, produce documents, or both.

(b) Authorizes the commissioner, if a person disobeys a subpoena or if a person appearing in a deposition in connection with the investigation refuses to testify, to petition a district court in Travis County to issue an order requiring the person to obey the subpoena, testify, or produce documents relating to the matter. Requires the court to promptly set an application to enforce a subpoena issued under

Subsection (a) for hearing and to cause notice of the application and the hearing to be served on the person to whom the subpoena is directed.

SECTION 2. Effective date: upon passage or September 1, 2017.