

BILL ANALYSIS

Senate Research Center
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S.B. 2058
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Savings and Mortgage Lending has two key areas of regulatory responsibility: chartering, regulating, and supervising the state's thrift industry (savings banks and savings and loan associations); and licensing and regulating the state's mortgage industry. These two areas of responsibility cover the vast majority of residential mortgage lending in Texas. The savings and mortgage lending commissioner may issue a savings and loan association or savings bank charter or approve the registration of a residential mortgage loan servicer upon satisfaction of certain prerequisites. Individuals who control such financial institutions have a fiduciary obligation to depositors, consumers, and other stakeholders.

S.B. 2058 authorizes the Department of Savings and Mortgage Lending to obtain criminal history record information regarding employees and volunteers, applicants for employment, and contractors or subcontractors with the department. Criminal history record information is important to properly establish the character, responsibility, and general fitness of each person proposed to assume a controlling role of these entities.

Similar to the banking commissioner's and the consumer credit commissioner's authority to access criminal history record information under Sections 411.092 and 411.095, Government Code; respectively, S.B. 2058 seeks to amend Chapter 411, Government Code, and specifically Section 411.1385, Government Code, to authorize the savings and mortgage lending commissioner to obtain criminal history record information from the Department of Public Safety regarding an application for a charter, license, or other authority granted by the savings and mortgage lending commissioner under Subtitle B or C, Title 3, Finance Code, or Chapters 156, 157, 158, or 180, Finance Code, as well as the criminal history record information of contractors, applicants for employment, employees, interns, or volunteers of the department.

As proposed, S.B. 2058 amends current law relating to criminal history record information obtained by the savings and mortgage lending commissioner.

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 Section 411.1385, Government Code, as follows:

Sec. 411.1385. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SAVINGS AND MORTGAGE LENDING COMMISSIONER. (a) Provides that the savings and mortgage lending commissioner is entitled to obtain from the Texas Department of Public Safety (DPS) criminal history record information maintained by DPS that relates to a person who is:

- (1) an applicant for or holder of a license, charter, or other authority granted or issued by the savings and mortgage lending commissioner under Subtitle B (Savings and Loan Associations) or C (Savings Banks), Title 3 (Financial Institutions and Businesses), Finance Code, or Chapter

156 (Residential Mortgage Loan Companies), 157 (Mortgage Bankers and Residential Mortgage Loan Originators), 158 (Residential Mortgage Loan Servicers), or 180 (Residential Mortgage Loan Originators), Finance Code;

(2) an employee of or volunteer with the Department of Savings and Mortgage Lending (SML);

(3) an applicant for employment or an internship with SML; or

(4) a contractor or subcontractor of SML.

(b) Prohibits the savings and mortgage lending commissioner, except as provided by Subsection (c), from releasing or disclosing criminal history record information obtained under this section unless certain criteria are met.

(c) Redesignates existing text of Subsection (b) as Subsection (c) and makes no further changes to this subsection.

SECTION 2. Effective date: September 1, 2017.