

SUBJECT: Notice of transfer of residential loan service to borrower

COMMITTEE: Financial Institutions — committee substitute recommended

VOTE: 5 ayes — Marchant, Elkins, Giddings, Gutierrez, Romo

0 nays

4 absent — Carona, Grusendorf, Hudson, Patterson

WITNESSES: (*On original version:*)

For — Homer L. Biggerstaff

Against — Joan Gillett, Life Savings Bank; Gary J. Davis, Homeowners Mortgage & Equity, Inc.; Robert C. Duke, Texas Financial Services Association; John Heasley, Texas Bankers Association; Clay B. Carson, Texas Mortgage Bankers Association

DIGEST: CSHB 725 would require any person servicing a residential loan that does not come under the federal Real Estate Settlement Procedures Act to notify the borrower of the transfer in writing 15 days before any transfer of the servicing of the loan. The entity to which the loan is transferred would have to notify the borrower at least 15 days after the transfer is made. No notice would be required if the borrower was informed of the service transfer at closing. If a servicer or the transferee terminates a servicing contract, starts bankruptcy proceedings or the servicer or transferee or their parent company is taken over by the Federal Deposit Insurance Corporation or the Resolution Trust Company, then the notice to the borrower would have to be made within 30 days of the transfer of the loan.

The notice would have to contain certain information including the date of transfer, the name, address and toll-free or collect phone number of the new servicer and an employee of the current servicer.

The bill would not permit a late loan fee payment to be imposed on the borrower 60 days after the effective transfer of a loan. A payment could

not be considered late if it is received by transferring servicer before the payment due date.

The bill would only apply to the servicing of a loan and not to the transfer of the note to another. However, if the borrower requests, the servicer would be required to provide the borrower the name and address of the person holding the note within 10 days of receiving the request.

Violation of the provisions of this bill would be an offense and punishable by a fine of no more than \$1,000.

CSHB 725 would take effect on September 1, 1995 and would apply to service transfers on or after that date.

**SUPPORTERS
SAY:**

CSHB 725 would require that entities servicing residential loans in Texas that do not come under the federal Real Estate Settlement Procedures Act be subject to the same notification procedures required by that act. This bill would affect private mortgage companies in Texas.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

The original version would have required a lender who holds a note on a residential property to notify a borrower of the intent to transfer the note and give the borrower the opportunity to payoff the loan at the discounted price at which the note was to be sold.