

## **BILL ANALYSIS**

H.B. 1239  
By: Walle  
Investments & Financial Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties note that under the federal Real Estate Settlement Procedures Act (RESPA) a mortgage servicer must provide a borrower with an annual statement detailing the activity of the borrower's escrow account, transfer of servicing, and balance or payment inquiries and disputes. However, the parties assert that when RESPA is inapplicable, the practices of Texas mortgage servicers are not regulated in the same manner as they would be under RESPA. The parties contend that since many small volume owner-financiers are not required to provide information about payment history and escrow accounts to borrowers, many Texas homebuyers may not know whether taxes and insurance are being paid, how late payments affect their principal balance, or whether an issue with the account has put them at risk of foreclosure. H.B. 1239 seeks to remedy this issue.

### **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**

H.B. 1239 amends the Finance Code to require a mortgage servicer to provide to the borrower an annual accounting statement in January of each year for the term of the loan that clearly and conspicuously states the amount of each payment that was received by the mortgage servicer as payment toward the loan during the preceding calendar year, how each payment was applied to the borrower's account, and the outstanding balance of the borrower's principal obligation under the loan. The bill authorizes a borrower injured by a violation of the bill's provisions, in addition to any other legal and equitable remedy available, to bring an action to obtain an order requiring compliance with the bill's provisions and to recover actual damages, including reasonable attorney's fees, and \$100 for each violation. The bill's provisions apply only to a loan secured by a first or subordinate lien on residential real property that is not a federally related mortgage loan, a loan made by a credit union regulated by the Credit Union Department, or a loan that is primarily for business, commercial, or agricultural purposes, or for temporary financing, such as a construction loan, as referred to under federal law.

### **EFFECTIVE DATE**

September 1, 2015.