

## **BILL ANALYSIS**

C.S.H.B. 4107  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties contend that additional safeguards are needed to ensure that the abatement process for certain expedited foreclosure proceedings provides for the completion of any concurrent loan modification efforts. C.S.H.B. 4107 seeks to address this issue by requiring the Supreme Court of Texas to adopt certain rules of civil procedure pertaining to that abatement process.

### **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 rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 4107 amends the Government Code to require the Supreme Court of Texas to adopt rules of civil procedure providing for abatement, in appropriate cases, of expedited foreclosure proceedings relating to a lien for a certain extension of credit or to the foreclosure of a reverse mortgage lien that requires a court order, to facilitate completion of a loan modification effort while preserving the expedited character of proceedings conducted under a specified provision of the Texas Rules of Civil Procedure. The bill requires the supreme court to initiate proceedings to adopt those rules on or before the 90th day after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 4107 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Section 154.028(e), Civil Practice and Remedies Code, is amended to read as follows:

#### **HOUSE COMMITTEE SUBSTITUTE**

No equivalent provision.

(e) At a hearing under Subsection (a), the court must consider any objections to the referral of the case to mediation. In addition, the court may abate or dismiss the application if the court determines that at least 30 days prior to the hearing:

(1) the borrower has submitted a completed loss mitigation application to the lender or servicer; and

(2) the lender or servicer has not provided the borrower, in writing, a notice stating:

(A) the borrower has been denied for any loss mitigation options, or

(B) the lender or servicer's determination of which loss mitigation options, if any, will be offered to the borrower on behalf of the owner or assignee of the mortgage loan.

(e-1) For the purpose of subsection (e), "loss mitigation application" means a completed application in which a lender or servicer has received all information the lender or servicer requested from a borrower to evaluate the borrower for the loss mitigation options available to the borrower.

No equivalent provision.

SECTION 1. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.021 to read as follows:

Sec. 22.021. RULES CONCERNING ABATEMENT OF CERTAIN EXPEDITED FORECLOSURE PROCEEDINGS. The supreme court shall adopt rules of civil procedure providing for abatement, in appropriate cases, of expedited foreclosure proceedings described by Section 50(r), Article XVI, Texas Constitution, to facilitate completion of a loan modification effort while preserving the expedited character of proceedings conducted under Rule 736, Texas Rules of Civil Procedure.

No equivalent provision.

SECTION 2. The change in law made by this Act applies only to an application for an expedited order allowing foreclosure of a lien that is filed on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law applicable to the application immediately before the effective date of this Act, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION 2. The Supreme Court of Texas shall initiate proceedings to adopt rules under Section 22.021, Government Code, as added by this Act, on or before the 90th day after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.