

BILL ANALYSIS

Senate Research Center
79R9437 KCR-D

H.B. 1235
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Business & Commerce
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

In 2003, the Texas Legislature amended Chapter 51, Property Code, which governs the process of foreclosing real property, to allow mortgage servicers to administer the foreclosure process. A mortgage servicer is the last person to whom a mortgagor has been instructed by the current mortgagee to send payments for the debt secured by a security instrument. A mortgagee may be the mortgage servicer.

Currently, a sale of real property under a power of sale conferred by a deed of trusts or other contract lien must be a public sale at an auction at the county courthouse. A mandatory notice of the date, time, and place of the foreclosure sale is to be served on the borrower by the mortgage servicer only.

The purpose of this bill is to eliminate the perceived requirement that only a mortgage servicer can serve on the borrower the mandatory notice of the date, time, and place of a foreclosure sale.

In reality, a notice foreclosure sale can also be served by mortgagee or an attorney. H.B. 1235 makes changes to the notice requirements for sale of real property under a contract lien.

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 51.002(b), Property Code, as follows:

(3) Deletes the requirement that the notice of sale, as specified, be provided specifically by the mortgage servicer of the debt to which the power of sale is related.

SECTION 2. Amends Section 51.0025, Property Code, to add the requirement that the notice include the address of the mortgagee, or of the mortgage service, if there is an agreement granting a mortgage servicer the authority to service the mortgage. Makes nonsubstantive changes.

SECTION 3. (a) Makes application of Section 51.002, Property Code, as amended by this Act, prospective.

(b) Makes application of Section 51.0025, Property Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2005.