

BILL ANALYSIS

H.B. 1236
By: Paxton
Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, there is no specific exception for foreclosure sales under the Real Estate License Act. Selling foreclosed property on the courthouse steps is the responsibility of the trustee named in the mortgage being foreclosed. In the recent past, an expert at the Texas Real Estate Center at Texas A&M University questioned whether a foreclosure sale could be challenged on a technicality if a trustee does not hold a Real Estate Broker's License and a foreclosure sale is a sale of real property. This bill seeks to put an end to the uncertainty by amending the Real Estate License Act.

H.B. 1236 seeks to continue, as well as validate, the mortgage industry's 150-year practice of not requiring a trustee to be licensed as a real estate broker to conduct a foreclosure sale.

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.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1101.005, Occupations Code, as follows:

Sec. 1101.005. APPLICABILITY OF CHAPTER. Provides that this chapter does not apply to a transaction involving the sale of real property under a power of sale conferred by a deed of trust or other contract lien.

SECTION 2. Effective date: Immediately, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

EFFECTIVE DATE

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