

By: Paxton

H.B. No. 1234

A BILL TO BE ENTITLED

AN ACT

relating to the appointment of substitute trustees in certain foreclosures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.0075, Property Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Notwithstanding any agreement to the contrary, a [A] mortgagee may appoint or may authorize a mortgage servicer to appoint a [perpetual] substitute trustee or substitute trustees to succeed to all title, powers, and duties of the original trustee. A mortgagee or mortgage servicer may make an appointment or authorization under this subsection by power of attorney, corporate resolution, or other written instrument. [The power of attorney or written instrument must be signed by the mortgagee's representative, acknowledged, and sworn to with a jurat.]

(d) A mortgage servicer may authorize an attorney to appoint a substitute trustee or substitute trustees on behalf of a mortgagee under Subsection (c).

SECTION 2. The changes in law made by this Act apply to a security instrument or other contract executed on or after the effective date of this Act and to a security instrument or other contract executed before the date of this Act that does not conflict with the changes in law made by this Act. A security instrument or

1 other contract executed before the effective date of this Act that  
2 conflicts with the changes in law made by this Act is governed by  
3 the law in effect at the time the security instrument or other  
4 contract was executed, and the former law is continued in effect for  
5 that purpose.

6 SECTION 3. This Act takes effect September 1, 2005.