

By: Paxton

H.B. No. 1235

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the notice required for a sale of real property under a
3 contract lien.

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

5 SECTION 1. Section 51.002(b), Property Code, is amended to
6 read as follows:

7 (b) Notice of the sale, which must include a statement of
8 the earliest time at which the sale will begin, must be given at
9 least 21 days before the date of the sale by:

10 (1) [~~by~~] posting at the courthouse door of each county
11 in which the property is located a written notice designating the
12 county in which the property will be sold;

13 (2) [~~by~~] filing in the office of the county clerk of
14 each county in which the property is located a copy of the notice
15 posted under Subdivision (1); and

16 (3) [~~by the mortgage servicer of the debt to which the~~
17 ~~power of sale is related~~] serving written notice of the sale by
18 certified mail on each debtor who, according to the records of the
19 mortgage servicer of the debt, is obligated to pay the debt.

20 SECTION 2. Section 51.0025, Property Code, is amended to
21 read as follows:

22 Sec. 51.0025. ADMINISTRATION OF FORECLOSURE BY MORTGAGE
23 SERVICER. A mortgage servicer may administer the foreclosure of
24 property under Section 51.002 on behalf of a mortgagee if:

1 (1) the mortgage servicer and the mortgagee have
2 entered into an agreement granting the current mortgage servicer
3 authority to service the mortgage; and

4 (2) the notices [~~mortgage servicer discloses in the~~
5 ~~notice~~] required under Section 51.002(b) disclose [~~51.002:~~

6 [~~(A)~~] that the mortgage servicer is representing
7 the mortgagee under a servicing agreement with the mortgagee[+] and

8 [~~(B)~~] the name [~~and address~~] of the mortgagee
9 and:

10 (A) the address of the mortgagee; or

11 (B) the address of the mortgage servicer, if
12 there is an agreement granting a mortgage servicer the authority to
13 service the mortgage.

14 SECTION 3. (a) Except as provided by a security instrument
15 or other contract executed before the effective date of this Act,
16 the changes in law made by Section 51.002, Property Code, as amended
17 by this Act, apply to the notice required under Section 51.002,
18 Property Code, that is posted, filed, and served on or after the
19 effective date of this Act. If a security instrument or other
20 contract executed before the effective date of this Act conflicts
21 with the changes in law made by Section 51.002, Property Code, as
22 amended by this Act, as to the notice required to sell real property
23 under a contract lien, the notice provisions of the security
24 instrument or other contract prevail, and the security instrument
25 or other contract is governed by the law in effect at the time the
26 security instrument or other contract was executed, and that former
27 law is continued in effect for that purpose.

1 (b) Except as provided by a security instrument or other
2 contract executed before the effective date of this Act, the
3 changes in law made by Section 51.0025, Property Code, as amended by
4 this Act, apply to the administration of a sale of real property
5 under a contract lien that is conducted on or after the effective
6 date of this Act. If a security instrument or other contract
7 executed before the effective date of this Act conflicts with the
8 changes in law made by Section 51.0025, Property Code, as amended by
9 this Act, as to the administration of a sale of real property under
10 a contract lien, the security instrument or other contract
11 prevails, and the security instrument or other contract is governed
12 by the law in effect at the time the security instrument or other
13 contract was executed, and the former law is continued in effect for
14 that purpose.

15 SECTION 4. This Act takes effect September 1, 2005.