

By: Harris

S.B. No. 1154

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the appointment of substitute trustees in certain
3 foreclosures.

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

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

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

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

20 SECTION 2. The changes in law made by this Act apply to a
21 security instrument or other contract executed on or after the
22 effective date of this Act and to a security instrument or other
23 contract executed before the date of this Act that does not conflict
24 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.