

By: Carona

S.B. No. 1631

A BILL TO BE ENTITLED

AN ACT

relating to the right of redemption after the foreclosure of certain properties.

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

SECTION 1. Subsections (d), (i), and (j), Section 209.011, Property Code, are amended to read as follows:

(d) To redeem property purchased at a sale foreclosing a ~~[by the]~~ property owners' association's assessment lien ~~[association at the foreclosure sale]~~, the lot owner must pay to the association and the third party who purchased the property at the foreclosure sale, as applicable:

(1) all amounts due the association at the time of the foreclosure sale;

(2) interest from the date of the foreclosure sale to the date of redemption on all amounts owed the association and, if applicable, the third party who purchased the property at the foreclosure sale to be determined as follows:

(A) for the association, at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent; and

(B) for the third party who purchased the property at the foreclosure sale, at an annual interest rate of 10 percent;

(3) costs incurred by the association in foreclosing

1 the lien and conveying the property to the redeeming lot owner,
2 including reasonable attorney's fees;

3 (4) any assessment levied against the property by the
4 association after the date of the foreclosure sale;

5 (5) any reasonable cost incurred by the association
6 or, if applicable, the third party who purchased the property at the
7 foreclosure sale, including mortgage payments, repayment of any
8 other debts secured by the property that were delinquent or in
9 default on the date of the foreclosure sale, assessment payments,
10 and costs of repair, maintenance, and leasing of the property; and

11 (6) the purchase price paid by the association or, if
12 applicable, the third party who purchased the property at the
13 foreclosure sale less any amounts due the association under
14 Subdivision (1) that were satisfied out of foreclosure sale
15 proceeds.

16 (i) If the property owners' association purchases the
17 property at foreclosure, all rent and other income collected by the
18 association from the date of the foreclosure sale to the date of
19 redemption shall be credited toward the amount owed the association
20 under Subsection (d), and if there are excess proceeds, they shall
21 be refunded to the lot owner. If a person other than the
22 association purchases the property at foreclosure, all rent and
23 other income collected by the purchaser from the date of the
24 foreclosure sale to the date of redemption shall be credited toward
25 the amount owed the purchaser under Subsection (d) [~~(e)~~], and if
26 there are excess proceeds, those proceeds shall be refunded to the
27 lot owner.

1 (j) If a person other than the property owners' association
2 is the purchaser at the foreclosure sale, before executing a deed
3 transferring the property to the redeeming lot owner, the purchaser
4 shall obtain an affidavit from the association or its authorized
5 agent stating that all amounts owed the association under
6 Subsection (d) [~~(e)~~] have been paid. The association shall provide
7 the purchaser with the affidavit not later than the 10th day after
8 the date the association receives all amounts owed to the
9 association under Subsection (d) [~~(e)~~]. Failure of a purchaser to
10 comply with this subsection does not affect the validity of a
11 redemption by a redeeming lot owner.

12 SECTION 2. Subsection (e), Section 209.011, Property Code,
13 is repealed.

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