

By: Thibaut

H.B. No. 1471

A BILL TO BE ENTITLED

AN ACT

relating to foreclosure sales of residential real property.

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

SECTION 1. Section 24.005(b), Property Code, is amended to read as follows:

(b) If the occupant is a tenant at will or by sufferance, the landlord must give the tenant at least three days' written notice to vacate before the landlord files a forcible detainer suit unless the parties have contracted for a shorter or longer notice period in a written lease or agreement. If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale under a lien superior to the tenant's lease and the tenant timely pays rent and is not otherwise in default under the tenant's lease after foreclosure, the purchaser must give a residential tenant of the building at least 90 [~~30~~] days' written notice to vacate if the purchaser chooses not to continue the lease. The tenant is considered to timely pay the rent under this subsection if, during the month of the foreclosure sale, the tenant pays the rent for that month to the landlord before receiving any notice that a foreclosure sale is scheduled during the month or pays the rent for that month to the foreclosing lienholder or the purchaser at foreclosure not later than the fifth day after the date of receipt of a written notice of the name and address of the purchaser that requests payment. Before a foreclosure sale, a foreclosing

1 lienholder may give written notice to a tenant stating that a  
2 foreclosure notice has been given to the landlord or owner of the  
3 property and specifying the date of the foreclosure.

4 SECTION 2. Section 51.002(d), Property Code, is amended to  
5 read as follows:

6 (d) Notwithstanding any agreement to the contrary, the  
7 mortgage servicer of the debt shall serve a debtor in default under  
8 a deed of trust or other contract lien on residential real property  
9 ~~[used as the debtor's residence]~~ with written notice by certified  
10 mail, and first class regular mail, addressed to the debtor at the  
11 debtor's last known address stating that the debtor is in default  
12 under the deed of trust or other contract lien and giving the debtor  
13 at least 45 ~~[20]~~ days to cure the default before notice of sale can  
14 be given under Subsection (b). The entire calendar day on which the  
15 notice required by this subsection is given, regardless of the time  
16 of day at which the notice is given, is included in computing the  
17 45-day ~~[20-day]~~ notice period required by this subsection, and the  
18 entire calendar day on which notice of sale is given under  
19 Subsection (b) is excluded in computing the 45-day ~~[20-day]~~ notice  
20 period.

21 SECTION 3. Chapter 51, Property Code, is amended by adding  
22 Section 51.010 to read as follows:

23 Sec. 51.010. WAIVER. A provision of a contract, agreement,  
24 or other document that purports to waive a right of a debtor or  
25 exempt a mortgage servicer, mortgagee, trustee, substitute  
26 trustee, or government official from a duty under this chapter is  
27 void.

1           SECTION 4. (a)       Section 24.005(b), Property Code, as  
2 amended by this Act, applies only to a notice to vacate residential  
3 real property purchased at a foreclosure sale on or after the  
4 effective date of this Act. Notice to vacate residential real  
5 property purchased at a foreclosure sale before the effective date  
6 of this Act is governed by the law in effect immediately before the  
7 effective date of this Act, and that law is continued in effect for  
8 that purpose.

9           (b)   Section 51.002, Property Code, as amended by this Act,  
10 applies only to a sale of residential real property in which notice  
11 of default under that section is provided on or after December 1,  
12 2009. A sale in which notice of default is provided before December  
13 1, 2009, is subject to the law in effect immediately before the  
14 effective date of this Act, and that law is continued in effect for  
15 that purpose.

16          (c)   Section 51.010, Property Code, as added by this Act,  
17 applies only to a contract, agreement, or other document entered  
18 into or made on or after the effective date of this Act. A contract,  
19 agreement, or document entered into or made before the effective  
20 date of this Act is governed by the law in effect immediately before  
21 the effective date of this Act, and that law is continued in effect  
22 for that purpose.

23          SECTION 5. This Act takes effect September 1, 2009.