

By: Thompson

H.B. No. 1760

A BILL TO BE ENTITLED

AN ACT

relating to the filing of an action in connection with foreclosure of a lien on residential real property.

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

SECTION 1. Chapter 51, Property Code, is amended by adding Section 51.010 to read as follows:

Sec. 51.010. TIME FOR FILING CERTAIN ACTIONS AGAINST LIENHOLDER. (a) Subject to this section, an owner of residential real property that is subject to a contract lien may file an action against the lienholder for a claim that arises out of the transaction under which the lien attached, regardless of whether the action would otherwise be barred by limitation, if the lienholder:

(1) serves the property owner with a notice of sale under Section 51.002; or

(2) conducts a foreclosure sale of the property under Section 51.002.

(b) An action filed under this section must be filed not later than the 30th day after the later of:

(1) the date of the proposed foreclosure sale, as it appears in the notice of sale, regardless of whether the sale occurs; or

(2) the date the foreclosure sale occurs.

SECTION 2. The change in law made by this Act applies only

1 to a notice of sale given on or after the effective date of this Act
2 or to a foreclosure sale under Section 51.002, Property Code, for
3 which the notice of sale was given on or after the effective date of
4 this Act. A notice of sale given before the effective date of this
5 Act or a foreclosure sale for which the notice of sale was given
6 before the effective date of this Act is governed by the law in
7 effect immediately before the effective date of this Act, and that
8 law is continued in effect for that purpose.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2009.