

By: Davis of Dallas

H.B. No. 2309

A BILL TO BE ENTITLED

AN ACT

relating to reporting of certain information regarding foreclosure sales of residential real property.

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

SECTION 1. Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.084 to read as follows:

Sec. 2306.084. MORTGAGE DEFAULT AND FORECLOSURE DATA COLLECTION AND REPORT. (a) The board shall prescribe the form and content of the forms to be filed with the county clerk under Section 51.0023, Property Code, and procedures for a county clerk to submit the data collected under that section to the department.

(b) The form prescribed for submission by a mortgage servicer under Section 51.0023(a), Property Code, must request information about the property, the debtor, and other facts surrounding the foreclosure, including:

(1) the type of lien being foreclosed, as listed in Section 50, Article XVI, Texas Constitution;

(2) the initial interest rate of the loan;

(3) the origination and maturity dates of the loan;

(4) the initial amount of the debt;

(5) whether the loan allows negative amortization or allows the payment of interest only;

(6) whether the interest rate could change and, if so, the minimum and maximum rates, the index used, the amount of the

1 margin, how often the rate could adjust, how much the rate could  
2 adjust, and the current interest rate being charged;

3 (7) whether the loan allows for a scheduled payment  
4 that is more than twice as large as the average of earlier scheduled  
5 monthly payments;

6 (8) whether the loan has a prepayment penalty or a  
7 universal default provision in which it allows for a change in the  
8 interest rate when there is a default by the debtor on any  
9 obligation to the lender or any other lender or there is a decrease  
10 in the debtor's credit score;

11 (9) the type of default;

12 (10) demographics of the debtor;

13 (11) whether the property was the debtor's residence;

14 (12) the zip code of the property subject to sale; and

15 (13) any other information the department finds  
16 appropriate to request from the mortgage servicer.

17 (c) The form prescribed for submission by a purchaser of  
18 residential real property under Section 51.0023(c), Property Code,  
19 must request:

20 (1) information identifying the property purchased;

21 (2) the date of the foreclosure sale; and

22 (3) any other information the department finds  
23 appropriate to request.

24 (d) The county clerk shall submit the data collected under  
25 Section 51.0023, Property Code, to the department monthly. The  
26 department shall make the data submitted available to the public on  
27 the department's Internet website.

1       (e) Not later than January 1 of each year, the department  
2 shall submit a report to the governor, lieutenant governor, speaker  
3 of the house of representatives, and attorney general regarding the  
4 data collected under this section. The department shall make the  
5 report required under this subsection available to the public on  
6 the department's Internet website.

7       SECTION 2. Chapter 51, Property Code, is amended by adding  
8 Section 51.0023 to read as follows:

9       Sec. 51.0023. DATA COLLECTION. (a) A notice of sale filed  
10 with the county clerk under Section 51.002(b) regarding residential  
11 real property must include a completed and sworn form prescribed by  
12 the board of the Texas Department of Housing and Community Affairs  
13 under Section 2306.084(b), Government Code.

14       (b) If information requested by the form is unknown by the  
15 mortgage servicer, the mortgage servicer must provide the  
16 information that is known and file an affidavit with the county  
17 clerk based on personal knowledge that the mortgage servicer made a  
18 diligent inquiry and has been unable to locate the information  
19 requested.

20       (c) A person who purchases residential real property at a  
21 foreclosure sale must file with the county clerk of each county in  
22 which the property is located, not later than the 10th day after the  
23 date of the foreclosure sale:

- 24               (1) the deed to the property for recording; and  
25               (2) a completed and sworn form prescribed by the board  
26 of the Texas Department of Housing and Community Affairs under  
27 Section 2306.084(c), Government Code.

1           (d) The county clerk may:

2                   (1) accept data required to be submitted on a form  
3 required to be filed under this section in an electronic form  
4 instead of by filing if the submission is sworn and the date of  
5 submission is recorded; or

6                   (2) authorize the entry of data electronically in the  
7 county clerk's offices.

8           SECTION 3. (a) Not later than November 1, 2009, the board  
9 of the Texas Department of Housing and Community Affairs shall  
10 prescribe the forms and procedures required by Section 2306.084,  
11 Government Code, as added by this Act.

12           (b) Except as provided by this section, Section 51.0023,  
13 Property Code, as added by this Act, applies only to a sale of  
14 residential real property in which notice of sale under Section  
15 51.002, Property Code, is provided on or after December 1, 2009. A  
16 sale in which notice of sale is provided before December 1, 2009, is  
17 subject to the law in effect immediately before the effective date  
18 of this Act, and that law is continued in effect for that purpose.

19           SECTION 4. This Act takes effect September 1, 2009.