

By: Thompson

H.B. No. 2601

A BILL TO BE ENTITLED

AN ACT

relating to notice of a foreclosure sale of real property.

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

SECTION 1. Sections 51.002(b) and (g), Property Code, are amended to read as follows:

(b) Except as provided by Subsection (b-1), notice of the sale, which must include a statement of the earliest time at which the sale will begin, must be given at least 60 [~~21~~] days before the date of the sale by:

(1) posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold;

(2) filing in the office of the county clerk of each county in which the property is located a copy of the notice posted under Subdivision (1); and

(3) serving written notice of the sale by certified mail on each debtor who, according to the records of the mortgage servicer of the debt, is obligated to pay the debt.

(g) The entire calendar day on which the notice of sale is given, regardless of the time of day at which the notice is given, is included in computing the 60-day [~~21-day~~] notice period required by Subsection (b), and the entire calendar day of the foreclosure sale is excluded.

SECTION 2. Chapter 51, Property Code, is amended by adding

Section 51.0022 to read as follows:

Sec. 51.0022. PUBLICATION OF NOTICE. (a) A person required to provide notice under Section 51.002(b) of the sale of real property:

(1) shall publish in a newspaper of general circulation in each county in which the property is located at least once each week for four consecutive weeks beginning not earlier than the 35th day or later than the 28th day before the date of the sale notice that states the place of the sale and provides a description of the property sufficient to identify the property's location; and

(2) may also have the notice described by Subdivision (1) posted on the newspaper's website.

(b) The notice published under this section must, at a minimum, read substantially similar to the following:

"On the _____ day of _____, 20____, the lienholder listed below began a foreclosure proceeding on a lien against the real property described below by filing a notice with the County Clerk of _____ County, Texas, as prescribed by law.

Lienholder's name: _____

Lienholder's mailing address: _____

Lienholder's telephone number: _____

Lienholder's e-mail address: _____

The debtor listed below and all interested parties are hereby given notice that sale of that property will be conducted on (date/mm/dd/yyyy) _____, between the hours of 10 a.m. and 4 p.m. at (location): _____.

Debtor's name: _____

Property subject to foreclosure: _____

Street address: _____

City, state, and zip code: _____

Legal description: _____

"

(c) A newspaper that publishes a notice under Subsection (a) shall submit to the person required to provide notice under Section 51.002(b):

(1) a bill for publication with a clipping of the published notice; and

(2) the publisher's affidavit of:

(A) the fee for publishing the notice; and

(B) the dates the notice was published.

(d) Not later than the 25th day after the date of the sale, the person required to provide notice under Section 51.002(b) shall file with the county clerk an affidavit that provides the publisher's affidavit.

(e) A county clerk shall maintain all notices, including any affidavit, filed under this section in a manner available for public examination during the clerk's normal business hours. The clerk may dispose of a notice, including any affidavit, on or after the 60th day after the date of sale specified in the notice has passed. The clerk shall receive a fee of \$2 for each notice or affidavit filed.

SECTION 3. The changes in law made by this Act apply only to a notice of sale required to be provided under Section 51.002,

1 Property Code, on or after September 1, 2009. A notice of sale
2 required to be provided under Section 51.002, Property Code, before
3 September 1, 2009, is governed by the law in effect immediately
4 preceding the effective date of this Act, and the former law is
5 continued in effect for that purpose.

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