

BILL ANALYSIS

C.S.H.B. 635
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Defense & Veterans' Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties observe that, while a military servicemember may be allotted a grace period to cure an accumulated debt on a dwelling owned by the servicemember, the surviving spouse of a military servicemember is not allotted such time. C.S.H.B. 635 seeks to grant the surviving spouse of a military servicemember a grace period to cure a default on a residence before foreclosure of a lien or otherwise enforced obligation. The bill also seeks to make the surviving spouse of a military servicemember eligible to pay certain homestead taxes in installments.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 635 amends the Property Code to make provisions relating to the sale of an obligation that is secured by a mortgage, deed of trust, or other contract lien on real property or personal property that is a dwelling owned by a military servicemember applicable to such a contract lien on real property or personal property that is the residence of the surviving spouse of a military servicemember who was killed during active duty military service and for which the servicemember or surviving spouse is still obligated.

C.S.H.B. 635 requires a mortgagee who receives notice that a debtor in default under a deed of trust or other contract lien on real property used as the debtor's residence is the surviving spouse of a military servicemember killed during active duty military service in the 12 months preceding the date of default, notwithstanding provisions of law governing the notification requirements for the sale of real property under a contract lien or any agreement to the contrary, to give the debtor at least nine months from the date of default to cure the default before filing an action to foreclose a lien or otherwise enforce an obligation or giving notice of sale of real property under a contract lien.

C.S.H.B. 635 requires a court, in an action to foreclose a lien or otherwise enforce an obligation filed during the 12 months after the date on which a servicemember was killed during active duty military service or during a cure period and on the application of the surviving spouse of the servicemember, to stay the proceedings until the expiration of the prescribed cure period. The bill extends the prohibition against a sale, foreclosure, or seizure of certain properties during specified periods during or after a servicemember's active duty military service, except under specified conditions, to include, for a property that is the residence of a servicemember's surviving spouse, the nine-month period after the date that notice of the debtor's status as the surviving spouse of a military servicemember was given to the mortgagee.

C.S.H.B. 635 makes the authorization for a waiver of a military servicemember's rights under provisions of law relating to the sale of certain property owned by the servicemember applicable to the surviving spouse of a military servicemember who was killed during active duty military

service. The bill provides, as an alternative to the requirement that the waiver be made under a written agreement executed during or after the servicemember's period of active duty military service, a requirement that the agreement, if executed by the surviving spouse of a servicemember who was killed during active duty military service, be executed after the date on which the servicemember was killed.

C.S.H.B. 635 amends the Tax Code to apply, effective January 1, 2012, provisions relating to installment payments of certain homestead taxes to an individual who is the unmarried surviving spouse of a disabled veteran and qualified for an exemption under provisions relating to property tax exemptions for disabled veterans. The bill specifies that this change in law applies only to a property tax year that begins on or after January 1, 2012. The bill makes conforming and nonsubstantive changes.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 635 differs from the original by requiring a mortgagee to give a debtor in default who is the surviving spouse of a military servicemember killed during active duty military service in the 12 months preceding the date of default at least nine months from the date of default to cure the default, whereas the original requires the mortgagee to give the debtor at least 180 days.

C.S.H.B. 635 differs from the original by prohibiting a sale, foreclosure, or seizure of property that is the residence of a servicemember's surviving spouse from being conducted during the nine months after the date that notice of the debtor's status as the surviving spouse of a military servicemember was given to the mortgagee, whereas the original prohibits such events during the 12 months after the date on which the servicemember was killed during active duty military service.

C.S.H.B. 635 contains provisions not included in the original relating to the eligibility of the surviving spouse of a disabled veteran to pay property taxes imposed on a residence homestead in installments and making conforming changes.