

BILL ANALYSIS

C.S.H.B. 2224
By: Davis, Yvonne
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Notice of a foreclosure sale is currently required to be filed with the county clerk of the county in which the property is located. It has been observed, however, that this filing requirement does not provide valuable insight on residential foreclosures, particularly given the discrepancy between the number of residential foreclosures that are threatened and the number that actually occur. Interested parties contend that, given the increase in residential foreclosures in Texas, there is a need for additional data on the matter. C.S.H.B. 2224 seeks to provide for that data by amending the law as it relates to the collection of certain foreclosure data by the Texas Department of Housing and Community Affairs.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Housing and Community Affairs in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2224 amends the Property Code to require a trustee or sheriff of the county in which real property is located, on completion of a foreclosure sale of such property, to submit to the county clerk a completed form that contains information on whether the property is residential and the zip code of the property or, if available, the census tract in which the property is located. The bill requires the county clerk, not later than the 30th day after the date of receipt of such a form, to transmit the form to the Texas Department of Housing and Community Affairs (TDHCA). The bill requires the board of the TDHCA to prescribe the forms required under the bill's provisions and to adopt those forms not later than January 1, 2012.

C.S.H.B. 2224 limits the forms to requesting information on whether the property is residential and the zip code or census tract of the property. The bill requires the TDHCA to report the information received under the bill's provisions quarterly to the legislature in a format established by the board of the TDHCA by rule. The bill limits the applicability of its provisions to a foreclosure sale for which a notice of sale is filed on or after January 1, 2012, and establishes that a foreclosure sale for which a notice of sale is filed before that date is governed by the law in effect on the date the notice is filed and that the former law is continued in effect for that purpose. The bill defines "department."

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2224 differs from the original by requiring a trustee or sheriff of the county in which real property is located, on completion of a foreclosure sale of such property, to submit to the county clerk a completed form that contains information on whether the property is residential

and the zip code of the property or, if available, the census tract in which the property is located and to transmit the form to the Texas Department of Housing and Community Affairs (TDHCA) by a certain deadline, whereas the original requires a mortgage servicer who files a notice of a foreclosure sale of residential real property to submit to the TDHCA a completed and sworn form prescribed by the governing board of the TDHCA containing certain mortgage default and foreclosure data, including whether the property was residential and the zip code of the property subject to sale.

C.S.H.B. 2224 omits provisions included in the original requiring such a form to be submitted electronically in the manner prescribed by the board and requiring such a mortgage servicer, if information requested by the form is unknown by the servicer, to provide the information that is known and submit an affidavit based on personal knowledge that the mortgage servicer made a diligent inquiry and has been unable to locate the information requested.

C.S.H.B. 2224 omits provisions included in the original requiring the governing board of the TDHCA, not later than November 1, 2011, to prescribe the form and content of the form required to be filed by a foreclosing mortgage servicer and procedures to electronically submit the sworn form to the TDHCA. The substitute omits provisions included in the original requiring the form to request information about the property and the debtor, and other facts surrounding the foreclosure, including certain specified information.

C.S.H.B. 2224 contains provisions not included in the original requiring the board of the TDHCA to prescribe the required forms and adopt them not later than January 1, 2012, and limiting the forms to requesting certain information.

C.S.H.B. 2224 differs from the original by requiring the TDHCA to report the information received under the bill's provisions quarterly to the legislature in a format established by the board of the TDHCA by rule, whereas the original requires the TDHCA to submit a report annually to the governor, lieutenant governor, speaker of the house of representatives, and attorney general regarding collected mortgage default and foreclosure data. The substitute omits a provision included in the original requiring the TDHCA to make such data and the submitted report available to the public on the department's Internet website.

C.S.H.B. 2224 contains provisions not included in the original defining "department."

C.S.H.B. 2224 differs from the original with regard to the bill's applicability by limiting the bill's applicability to a foreclosure sale for which a notice of sale is filed on or after January 1, 2012, and establishing that a foreclosure sale for which a notice of sale is filed before that date is governed by the law in effect on the date the notice is filed and that the former law is continued in effect for that purpose, whereas the original limits the bill's applicability with regard to the collection of foreclosure data to a foreclosure sale of residential real property in which notice of sale is provided on or after December 1, 2011.