

BILL ANALYSIS

S.B. 101
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Defense & Veterans' Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The federal Servicemembers' Civil Relief Act (SCRA) was enacted to protect certain military servicemembers on active duty from foreclosures of mortgages, deeds of trust, and similar security devices under certain conditions. There have been reports that homes have been nonjudicially foreclosed on while an owner is on active military duty or deployed to a foreign country when debt servicers have not been informed of the debtor's active duty military status. While SCRA is well-designed to prevent such occurrences, interested parties believe there is a need to eliminate any breakdown in communication between a property owners' association and a property owner that may result in a home being nonjudicially foreclosed on.

S.B. 101 seeks to address this issue by providing a safeguard in addition to the federal act in an effort to prevent nonjudicial foreclosures from being carried out on homes owned by active duty military servicemembers.

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

S.B. 101 amends the Property Code to require the notice of a sale of real property under a power of sale conferred by a deed of trust or other contract lien that is served on each debtor obligated to pay the debt or the notice that is served on a debtor in default under a deed of trust or other contract lien on real property used as the debtor's residence to state the name and address of the sender of the notice and to contain a statement that is conspicuous, printed in boldface or underlined type, and substantially similar to the following: "Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately." The bill specifies that, with respect to restrictions on the sale, foreclosure, or seizure of real or personal property that is a dwelling owned by a member of the military to enforce an obligation secured by a mortgage, deed of trust, or other contract lien, such obligation includes a lien securing payment of a property owners' association assessment or assessments, as applicable, on that real or personal property. The bill provides for the definitions of "assessment" and "assessments" by reference.

EFFECTIVE DATE

September 1, 2011.