

By: Solomons

H.B. No. 565

A BILL TO BE ENTITLED

AN ACT

relating to the procedures required for the foreclosure of a property owners' association's assessment lien.

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

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.0091 to read as follows:

Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except as provided by Subsection (d), a property owners' association may not foreclose a property owners' association assessment lien unless the association first obtains a court order in an application for expedited foreclosure under the rules adopted by the supreme court under Subsection (b).

(b) The supreme court, as an exercise of the court's authority under Section 74.024, Government Code, shall adopt rules establishing expedited foreclosure proceedings for use by a property owners' association in foreclosing an assessment lien of the association. Except as provided by this section, the rules adopted under this subsection must be substantially similar to the rules adopted by the supreme court under Section 50(r), Article XVI, Texas Constitution.

(c) Rules adopted under Subsection (b) must require personal service on the record owners of the property of a copy of the notice and application for foreclosure of the lien.

(d) Expedited foreclosure is not required under this

1 section if the owner of the property that is subject to foreclosure  
2 agrees in writing at the time the foreclosure is sought to waive  
3 expedited foreclosure under this section. A waiver under this  
4 subsection may not be required as a condition of the transfer of  
5 title to real property.

6 SECTION 2. (a) Section 209.0091, Property Code, as added  
7 by this Act, applies only to a foreclosure sale that occurs after  
8 January 1, 2012. A foreclosure sale that occurs on or before  
9 January 1, 2012, is governed by the law in effect immediately before  
10 the effective date of this Act, and that law is continued in effect  
11 for that purpose.

12 (b) Not later than January 1, 2012, the Supreme Court of  
13 Texas shall adopt rules of civil procedure under Section 209.0091,  
14 Property Code, as added by this Act.

15 SECTION 3. This Act takes effect September 1, 2011.