

By: Guillen

H.B. No. 635

Substitute the following for H.B. No. 635:

By: Pickett

C.S.H.B. No. 635

A BILL TO BE ENTITLED

AN ACT

relating to a grace period to cure a default before foreclosure of certain contract liens on the residence of certain surviving spouses of military servicemembers and to the eligibility of the surviving spouse of a disabled veteran to pay ad valorem taxes imposed on a residence homestead in installments.

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

SECTION 1. The heading to Section 51.015, Property Code, is amended to read as follows:

Sec. 51.015. SALE OF CERTAIN PROPERTY OWNED BY MEMBER OF THE MILITARY OR SURVIVING SPOUSE.

SECTION 2. Section 51.015, Property Code, is amended by amending Subsections (b), (d), and (e) and adding Subsections (c-1) and (c-2) to read as follows:

(b) This section applies only to an obligation:

(1) 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 or is the residence of the surviving spouse of a military servicemember who was killed during active duty military service;

(2) that originates before the date on which the servicemember's active duty military service commences; and

(3) for which the servicemember or surviving spouse is still obligated.

1        (c-1) Notwithstanding Section 51.002(d) or any agreement to  
2 the contrary, if a mortgagee receives notice that a debtor in  
3 default under a deed of trust or other contract lien on real  
4 property used as the debtor's residence is the surviving spouse of a  
5 military servicemember killed during active duty military service  
6 in the 12 months preceding the date of default, the mortgagee shall  
7 give the debtor at least nine months from the date of default to  
8 cure the default before:

9                (1) filing an action to foreclose a lien or otherwise  
10 enforce an obligation described by Subsection (b); or

11                (2) giving notice of sale under Section 51.002(b).

12        (c-2) In an action to foreclose a lien or otherwise enforce  
13 an obligation described by Subsection (b) filed during the 12  
14 months after the date on which a servicemember was killed during  
15 active duty military service or during a cure period prescribed by  
16 Subsection (c-1), the court shall on the application of the  
17 surviving spouse of the servicemember stay the proceedings until  
18 the expiration of the cure period prescribed by Subsection (c-1).

19        (d) A sale, foreclosure, or seizure of property under a  
20 mortgage, deed of trust, or other contract lien described by  
21 Subsection (b) may not be conducted during the military  
22 servicemember's period of active duty military service, ~~or~~ during  
23 the nine months after the date on which that service period  
24 concludes, or, for a property that is the residence of the  
25 servicemember's surviving spouse, during the nine months after the  
26 date notice in Subsection (c)(1) was given to mortgagee unless the  
27 sale, foreclosure, or seizure is conducted under:

(1) a court order issued before the sale, foreclosure, or seizure; or

(2) an agreement that complies with Subsection (e).

(e) A military servicemember or the surviving spouse of a military servicemember who was killed during active duty military service may waive the servicemember's or surviving spouse's rights under this section only as provided by this subsection. The waiver must be:

(1) in writing in at least 12-point type;

(2) executed as an instrument separate from the obligation to which the waiver applies; and

(3) made under a written agreement:

(A) executed during or after the servicemember's period of active duty military service or, if executed by the surviving spouse, after the date on which the servicemember was killed during active duty military service; and

(B) specifying the legal instrument to which the waiver applies and, if the servicemember is not a party to the instrument, the servicemember concerned.

SECTION 3. (a) Section 31.031, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) This section applies only to:

(1) ~~[If before the delinquency date]~~ an individual who is:

(A) disabled or at least 65 years of age; and

(B) ~~[is]~~ qualified for an exemption under Section

11.13(c); or

(2) an individual who is:

(A) the unmarried surviving spouse of a disabled  
veteran; and

(B) qualified for an exemption under Section  
11.22.

(a-1) If before the delinquency date an individual to whom  
this section applies pays at least one-fourth of a taxing unit's  
taxes imposed on property that the person owns and occupies as a  
residence homestead, accompanied by notice to the taxing unit that  
the person will pay the remaining taxes in installments, the person  
may pay the remaining taxes without penalty or interest in three  
equal installments. The first installment must be paid before  
April 1, the second installment before June 1, and the third  
installment before August 1.

(b) The change in law made by this section to Section  
31.031, Tax Code, applies only to an ad valorem tax year that begins  
on or after January 1, 2012.

(c) This section takes effect January 1, 2012.

SECTION 4. The change in law made by Section 51.015,  
Property Code, as amended by this Act, applies only to a security  
interest that attaches on or after the effective date of this Act.  
A security interest that attaches before the effective date of this  
Act is governed by the law in effect on the date the security  
interest attached, and that law is continued in effect for that  
purpose.

SECTION 5. Except as otherwise provided by this Act, this

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1 Act takes effect September 1, 2011.