

By: Dutton

H.B. No. 1196

A BILL TO BE ENTITLED

AN ACT

relating to 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 Sections 209.0091 and 209.0092 to read as follows:

Sec. 209.0091. APPRAISAL AND MINIMUM SALE PRICE REQUIRED.

(a) Before a property owners' association files suit to foreclose an assessment lien or initiates foreclosure of the lien under Section 51.002, the association must:

(1) obtain and pay for an independent appraisal of the fair market value of the property owner's property; and

(2) provide a copy of the appraisal to the property owner by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation.

(b) Regardless of the amount of the lien, a property owners' association may not conclude a judicial or nonjudicial foreclosure sale of a property for which the property owners' association obtained an appraisal under Subsection (a) unless the final sale price at the foreclosure sale is at least 80 percent of the fair market value as shown in the appraisal.

Sec. 209.0092. PRIORITY OF PAYMENTS AFTER FORECLOSURE. (a) Proceeds received by a property owners' association at the conclusion of a foreclosure sale of a property subject to an

1 assessment lien shall be applied in the following order of
2 priority:

3 (1) any delinquent assessment;

4 (2) any current assessment;

5 (3) any attorney's fees incurred by the association
6 associated solely with assessments or any other charge that could
7 provide the basis for foreclosure;

8 (4) any fines assessed by the association;

9 (5) any attorney's fees incurred by the association
10 that are not subject to Subdivision (3); and

11 (6) any other amount owed to the association.

12 (b) All proceeds from the foreclosure sale remaining after
13 the application of money in accordance with Subsection (a) shall be
14 paid to the property owner not later than the 60th day after the
15 date of the foreclosure sale.

16 SECTION 2. The change in law made by this Act applies only
17 to a foreclosure of a property owners' association assessment lien
18 for unpaid assessments all of which first become delinquent on or
19 after the effective date of this Act. Foreclosure of a property
20 owners' association assessment lien for assessments all or part of
21 which first became delinquent before the effective date of this Act
22 is governed by the law in effect immediately before the effective
23 date of this Act, and that law is continued in effect for that
24 purpose.

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