

**BILL ANALYSIS**

C.S.H.B. 2978  
By: Parker  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

In order to sell property under a contract lien, notice of sale is provided by certified mail to each debtor. Stakeholders have observed that individuals who are served with such notice commonly do not respond to certified mail or cannot be located with a physical address, resulting in the service being returned as undeliverable mail. There is concern that this limitation on method of service causes unnecessary delays to the sale of the property. C.S.H.B. 2978 seeks to address this concern.

**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**

C.S.H.B. 2978 amends the Civil Practice and Remedies Code to establish, for purposes of a power of sale that is exercised by the filing of an application for an expedited court order allowing the foreclosure of a contract lien under the Texas Rules of Civil Procedure, that a citation issued to a person who is a respondent in the expedited order proceeding is considered complete when service is accomplished in accordance with rules of civil procedure relating to such expedited orders or in the manner provided for petitions under the Texas Rules of Civil Procedure. The bill prohibits the Texas Supreme Court from amending or adopting rules in conflict with the bill's provisions.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2978 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 51.002, Property Code, is amended by adding Subsection (b-2) to read as follows:

SECTION 1. Subchapter B, Chapter 17, Civil Practice and Remedies Code, is amended by adding Section 17.031 to read as follows:

Sec. 17.031. EXPEDITED FORECLOSURE PROCEEDINGS.

(b-2) For a power of sale exercised by the

(a) For a power of sale exercised by the filing

filing of an application for an expedited court order allowing the foreclosure of the contract lien under the Texas Rules of Civil Procedure:

(1) a citation issued to a debtor who is a respondent in the expedited order proceeding satisfies the requirement for notice of sale under Subsection (b) with respect to that debtor; and

(2) the notice is considered complete when service of process is in accordance with the Texas Rules of Civil Procedure.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

of an application for an expedited court order allowing the foreclosure of a contract lien under the Texas Rules of Civil Procedure,

a citation issued to a person who is a respondent in the expedited order proceeding is considered complete when service is accomplished in accordance with Rule 736, Texas Rules of Civil Procedure, or in the manner provided for petitions under the Texas Rules of Civil Procedure.

(b) Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this section.

SECTION 2. Same as introduced version.