

AN ACT

relating to procedures for expedited judicial foreclosure proceedings.

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

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. For a power of sale 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 736, service of citation shall be completed in accordance with Rule 736 or 106, Texas Rules of Civil Procedure, or in any other manner provided for petitions under the Texas Rules of Civil Procedure.

SECTION 2. Subchapter B, Chapter 154, Civil Practice and Remedies Code, is amended by adding Section 154.028 to read as follows:

Sec. 154.028. MEDIATION FOLLOWING APPLICATION FOR EXPEDITED FORECLOSURE. (a) A citation for expedited foreclosure may be served in the manner provided by Rule 106 or 736, Texas Rules of Civil Procedure. Following the filing of a response to an application for an expedited foreclosure proceeding under Rule 736.5, Texas Rules of Civil Procedure, a court may, in the court's discretion, conduct a hearing to determine whether to order

1 mediation. A court may not order mediation without conducting a  
2 hearing. The petitioner or respondent may request a hearing to  
3 determine whether mediation is necessary or whether an application  
4 is defective.

5 (b) A hearing under Subsection (a) may not be conducted  
6 before the expiration of the respondent's deadline to file a  
7 response.

8 (c) Subject to Subsection (d), a hearing under Subsection  
9 (a) may be conducted by telephone.

10 (d) Not later than the 10th day before the date of a hearing  
11 under Subsection (a), the court shall send notice of the hearing to  
12 the parties concerning whether the hearing will be conducted by  
13 telephone and, if applicable, instructions for contacting the court  
14 and attending the hearing by telephone.

15 (e) At a hearing under Subsection (a), the court must  
16 consider any objections to the referral of the case to mediation.

17 (f) If the court orders the case to mediation, the mediation  
18 must be conducted before the expiration of any deadline imposed by  
19 Rule 736, Texas Rules of Civil Procedure.

20 (g) If the parties to a case that has been ordered to  
21 mediation are unable to agree on the appointment of a mediator, the  
22 court may appoint a mediator. If a mediator is appointed by the  
23 court, the court shall provide all parties with the name of the  
24 chosen mediator at the mediation hearing if the parties are unable  
25 to agree to a mediator at that hearing.

26 (h) A mediator's fee shall be divided equally between the  
27 parties.

1 (i) The parties may agree to waive the mediation process.

2 (j) The court may not conduct a hearing under this section  
3 if the applicant has served the citation in compliance with Rule  
4 106, Texas Rules of Civil Procedure, and a response to the  
5 application has not been filed before the deadline provided by Rule  
6 736, Texas Rules of Civil Procedure.

7 (k) If a respondent fails to attend a mediation hearing  
8 after notice in accordance with Subsection (d), the court:

9 (1) may not order mediation; and

10 (2) shall grant or deny the petitioner's motion for  
11 default order under Rule 736.7, Texas Rules of Civil Procedure.

12 (l) If a respondent attends a hearing and mediation is  
13 ordered, any mediation must take place not later than the 29th day  
14 after the date the petitioner filed a motion for default order.

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

18 SECTION 3. Subchapter A, Chapter 22, Government Code, is  
19 amended by adding Section 22.018 to read as follows:

20 Sec. 22.018. PROMULGATION OF FORMS FOR CERTAIN EXPEDITED  
21 FORECLOSURE PROCEEDINGS. The supreme court shall promulgate the  
22 following forms for use in expedited foreclosure proceedings  
23 described by Section 50(r), Article XVI, Texas Constitution:

24 (1) a form for application for an expedited  
25 foreclosure proceeding;

26 (2) a form for a supporting affidavit; and

27 (3) a form for any court-required citation.

1           SECTION 4. Not later than March 1, 2014, the Texas Supreme  
2 Court shall promulgate the forms required by Section 22.018,  
3 Government Code, as added by this Act.

4           SECTION 5. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2013.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2978 was passed by the House on May 4, 2013, by the following vote: Yeas 134, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2978 on May 24, 2013, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2978 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor