

BILL ANALYSIS

C.S.H.B. 2681
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the sender of a notice of sale of real property under contract lien to a debtor is required to disclose the sender's name and street address. Interested parties contend that trustees, as well as substitute trustees, named on the deed of trust are not required to provide sufficient contact information, which prevents persons interested in the property from communicating questions and concerns and potentially creates an atmosphere ripe for fraudulent activity. In order to address this issue, C.S.H.B. 2681 seeks to require the inclusion of additional information in such a notice.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2681 amends the Property Code to include among the required information in a notice of sale of real property under contract lien served on a debtor the name, telephone number, facsimile number, e-mail address, and street address of each substitute trustee authorized to exercise the power of sale under the deed of trust, or if a substitute trustee authorized to exercise the power of sale under the deed of trust has not been appointed, the trustee authorized to exercise the power of sale under the deed of trust. The bill's provisions do not apply to a notice of sale of real property under contract lien served on a debtor by a condominium regime under the Condominium Act, a unit owners' association under the Uniform Condominium Act, or a property owners' association under the Texas Residential Property Owners Protection Act.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2681 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 51.002, Property Code, is amended by amending Subsection (i) and adding Subsection (j) to read as follows:

(i) Notice served on a debtor under this section must state:

(1) the name and address of the sender of the notice; and

(2) the name, telephone number, facsimile number, e-mail address, and street address of:

(A) the trustee named in the deed of trust authorized to exercise the power of sale; and

(B) if applicable, the substitute trustee authorized to exercise the power of sale under the deed of trust.

No equivalent provision.

(j) In ~~contain, in~~ addition to any other statements required under this section, notice served on a debtor under this section must contain a statement that is conspicuous, printed in boldface or underlined type, and substantially similar to the following: "Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately."

SECTION 2. Section 51.002(i), Property Code, as amended by this Act, applies only to a notice of sale given on or after the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 51.002, Property Code, is amended by amending Subsection (i) and adding Subsections (j) and (k) to read as follows:

(i) Notice served on a debtor under this section must state:

(1) the name and address of the sender of the notice; and

(2) except as provided by Subsection (j), the name, telephone number, facsimile number, e-mail address, and street address of:

(A) each substitute trustee authorized to exercise the power of sale under the deed of trust; or

(B) if a substitute trustee authorized to exercise the power of sale under the deed of trust has not been appointed, the trustee authorized to exercise the power of sale under the deed of trust.

(j) Subsection (i)(2) does not apply to a notice of sale of real property under contract lien served on a debtor by:

(1) a condominium regime under Chapter 81;

(2) a unit owners' association under Chapter 82; or

(3) a property owners' association under Chapter 209.

(k) In ~~contain, in~~ addition to any other statements required under this section, notice served on a debtor under this section must contain a statement that is conspicuous, printed in boldface or underlined type, and substantially similar to the following: "Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately."

SECTION 2. Substantially the same as introduced version.

effective date of this Act. A notice of sale given before the effective date of this Act is governed by the law as it existed when the notice was given, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.