

By: Oliveira

H.B. No. 2063

A BILL TO BE ENTITLED

AN ACT

relating to the recording and effective date of certain paper documents relating to nonjudicial foreclosure sales.

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

SECTION 1. Chapter 12, Property Code, is amended by adding Section 12.0012 to read as follows:

Sec. 12.0012. INSTRUMENTS CONCERNING REAL PROPERTY SUBJECT TO A FORECLOSURE SALE. (a) Notwithstanding Section 12.0011(b), the following paper documents received by the county clerk in the manner provided by Subsection (b) shall be recorded and may serve as notice of the paper document:

(1) an instrument appointing or authorizing a trustee or substitute trustee to exercise the power of sale in a security instrument;

(2) a notice of sale pursuant to which the sale under a power of sale occurred;

(3) a notice of default on which the sale evidenced by a deed conveying title from a trustee or substitute trustee to a purchaser occurred;

(4) documentation from the United States Department of Defense indicating that a debtor was not on active duty military service on the date of a foreclosure sale;

(5) a statement of facts regarding a foreclosure sale prepared by an attorney representing the trustee, substitute

1 trustee, or mortgage servicer; or

2 (6) proof of service of the mailing of any notice
3 related to a foreclosure sale.

4 (b) A document described by Subsection (a) must be attached
5 as an exhibit to:

6 (1) a deed that conveys title from a trustee or
7 substitute trustee to a purchaser at a foreclosure sale and that
8 meets the requirements for recording under Section 12.0011(b); or

9 (2) an affidavit of a trustee or substitute trustee
10 that meets the requirements for recording under Section 12.0011(b)
11 and relates to a foreclosure sale.

12 SECTION 2. Chapter 51, Property Code, is amended by adding
13 Section 51.0076 to read as follows:

14 Sec. 51.0076. EFFECTIVE DATE OF APPOINTMENT. The
15 appointment or authorization of a trustee or substitute trustee
16 made in a notice of sale is effective as of the date of the notice if
17 the notice:

18 (1) complies with Sections 51.002 and 51.0075(e); and

19 (2) is signed by an attorney who:

20 (A) is licensed to practice law in this state and
21 includes the attorney's state bar identification number; and

22 (B) represents the trustee, substitute trustee,
23 or mortgage servicer.

24 SECTION 3. The changes to law made by this Act apply only to
25 a sale for which a notice is required under Section 51.002, Property
26 Code, on or after the effective date of this Act. A sale for which a
27 notice is required under Section 51.002, Property Code, before the

1 effective date of this Act is governed by the law as it existed
2 immediately before the effective date of this Act, and that law is
3 continued in effect for that purpose.

4 SECTION 4. This Act takes effect September 1, 2015.