

By: Oliveira

H.B. No. 2067

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the rescission or waiver of an acceleration of the  
3 maturity date of certain debt secured by a lien on real property.

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

5 SECTION 1. Subchapter B, Chapter 16, Civil Practice and  
6 Remedies Code, is amended by adding Section 16.038 to read as  
7 follows:

8 Sec. 16.038. RESCISSION OR WAIVER OF ACCELERATED MATURITY  
9 DATE. (a) If the maturity date of a series of notes or obligations  
10 or a note or obligation payable in installments is accelerated, and  
11 the accelerated maturity date is rescinded or waived in accordance  
12 with this section before the limitations period expires, the  
13 acceleration is deemed rescinded and waived and the note,  
14 obligation, or series of notes or obligations shall be governed by  
15 Section 16.035 as if no acceleration had occurred.

16 (b) Rescission or waiver of acceleration is effective if  
17 made by a written notice of a rescission or waiver served as  
18 provided in Subsection (c) by the lienholder, the servicer of the  
19 debt, or an attorney representing the lienholder on each debtor  
20 who, according to the records of the lienholder or the servicer of  
21 the debt, is obligated to pay the debt.

22 (c) Service of a notice under Subsection (b) must be by  
23 first class or certified mail and is complete when the notice is  
24 deposited in the United States mail, postage prepaid and addressed

1 to the debtor at the debtor's last known address. The affidavit of  
2 a person knowledgeable of the facts to the effect that service was  
3 completed is prima facie evidence of service.

4 (d) A notice served under this section does not affect a  
5 lienholder's right to accelerate the maturity date of the debt in  
6 the future nor does it waive past defaults.

7 (e) This section does not create an exclusive method for  
8 waiver and rescission of acceleration or affect the accrual of a  
9 cause of action and the running of the related limitations period  
10 under Section 16.035(e) on any subsequent maturity date,  
11 accelerated or otherwise, of the note or obligation or series of  
12 notes or obligations.

13 SECTION 2. The change in law made by this Act applies with  
14 respect to a maturity date accelerated before, on, or after the  
15 effective date of this Act and any notice of a rescission or waiver  
16 of an accelerated maturity date served before, on, or after the  
17 effective date of this Act.

18 SECTION 3. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2015.