

By: Krause

H.B. No. 3611

A BILL TO BE ENTITLED

AN ACT

relating to the notice of default required under a deed of trust or other contract lien on real property.

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

SECTION 1. Sections 51.002(b), (d), (e), and (i), Property Code, are amended to read as follows:

(b) Except as provided by Subsection (b-1), notice of the sale, which must include a statement of the earliest time at which the sale will begin, must be given at least 21 days before the date of the sale by:

(1) posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold;

(2) filing in the office of the county clerk of each county in which the property is located a copy of the notice posted under Subdivision (1); and

(3) serving written notice of the sale by certified mail on each:

(A) debtor who, according to the records of the mortgage servicer of the debt, is obligated to pay the debt; and

(B) owner of record of the property other than the debtor, according to the records of the mortgage servicer of the debt.

(d) Notwithstanding any agreement to the contrary, the

1 mortgage servicer of the debt shall serve each [a] debtor in default  
2 under a deed of trust or other contract lien on real property used  
3 as the debtor's residence and each other owner of record of the  
4 property included in the records of the mortgage servicer of the  
5 debt with written notice by certified mail stating that the debtor  
6 is in default under the deed of trust or other contract lien and  
7 giving the debtor at least 20 days to cure the default before notice  
8 of sale can be given under Subsection (b). The entire calendar day  
9 on which the notice required by this subsection is given,  
10 regardless of the time of day at which the notice is given, is  
11 included in computing the 20-day notice period required by this  
12 subsection, and the entire calendar day on which notice of sale is  
13 given under Subsection (b) is excluded in computing the 20-day  
14 notice period.

15 (e) Service of a notice under this section by certified mail  
16 is complete when the notice is deposited in the United States mail,  
17 postage prepaid and addressed to the debtor at the debtor's last  
18 known address and to each other owner of record at the owner's last  
19 known address. The affidavit of a person knowledgeable of the facts  
20 to the effect that service was completed is prima facie evidence of  
21 service.

22 (i) Notice served on a debtor or owner of record under this  
23 section must state the name and address of the sender of the notice  
24 and the total amount necessary to cure the default and contain, in  
25 addition to any other statements required under this section, a  
26 statement that is conspicuous, printed in boldface or underlined  
27 type, and substantially similar to the following: "Assert and

1 protect your rights as a member of the armed forces of the United  
2 States. If you are or your spouse is serving on active military  
3 duty, including active military duty as a member of the Texas  
4 National Guard or the National Guard of another state or as a member  
5 of a reserve component of the armed forces of the United States,  
6 please send written notice of the active duty military service to  
7 the sender of this notice immediately."

8 SECTION 2. Section 51.0021, Property Code, is amended to  
9 read as follows:

10 Sec. 51.0021. ADDRESS OF OWNER OF RECORD; NOTICE OF CHANGE  
11 OF ADDRESS REQUIRED. (a) A debtor shall provide the mortgage  
12 servicer the address of each owner of record of the property at the  
13 time the security instrument for the debt is executed.

14 (b) A debtor shall inform the mortgage servicer of the debt  
15 in a reasonable manner of any change of address of the debtor or  
16 owner of record for purposes of providing notice to the debtor or  
17 owner under Section 51.002. An owner of record may inform the  
18 mortgage servicer of the debt in a reasonable manner of any change  
19 of address of the owner.

20 (c) For the purposes of providing notice to an owner of  
21 record under Section 51.002, the last known address of the owner is  
22 the address as shown by the records of the mortgage servicer of the  
23 security instrument unless the debtor or owner provided the current  
24 mortgage servicer a written change of address before the date the  
25 mortgage servicer mailed the notice.

26 SECTION 3. The changes in law made by this Act apply only to  
27 a security instrument executed on or after the effective date of

1 this Act. A security instrument executed before the effective date  
2 of this Act is governed by the law that applied to the instrument  
3 immediately before that date, and the former law is continued in  
4 effect for that purpose.

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