

By: West

S.B. No. 283

A BILL TO BE ENTITLED

AN ACT

relating to requirements for the nonjudicial foreclosure of certain residential mortgage liens.

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

SECTION 1. Chapter 51, Property Code, is amended by adding Section 51.0012 to read as follows:

Sec. 51.0012. EXPEDITED ORDER ALLOWING NONJUDICIAL FORECLOSURE OF CERTAIN LIENS REQUIRED. (a) In this section:

(1) "Loss mitigation application" means an oral or written request for a loss mitigation option that is accompanied by any information required by a mortgage servicer for evaluation for a loss mitigation option.

(2) "Loss mitigation option" means an alternative to foreclosure offered by the mortgagee that is made available through the mortgage servicer to the debtor.

(3) "Mortgage loan" includes a purchase money mortgage loan, a home equity loan, and a refinanced mortgage loan. The term does not include a home equity line of credit or a reverse mortgage.

(b) Notwithstanding any agreement to the contrary, a mortgagee or mortgage servicer of a mortgage loan secured by a deed of trust or other contract lien on real property used as a debtor's residence may not foreclose the lien under Section 51.002 unless the mortgagee or mortgage servicer obtains an expedited order under Rule 736, Texas Rules of Civil Procedure, before proceeding with

1 the foreclosure.

2 (c) In the application for the expedited order to allow the  
3 foreclosure of the lien, the mortgagee or mortgage servicer must  
4 state that:

5 (1) a payment for the mortgage loan is at least 120  
6 days delinquent; and

7 (2) no loss mitigation application submitted to the  
8 mortgage servicer by any person who is obligated to pay the mortgage  
9 loan is pending with the mortgage servicer.

10 SECTION 2. Section 51.0012, Property Code, as added by this  
11 Act, applies only to a mortgage loan agreement entered into on or  
12 after the effective date of this Act. A mortgage loan agreement  
13 entered into before the effective date of this Act is governed by  
14 the law applicable to the agreement immediately before that date,  
15 and that law is continued in effect for that purpose.

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