

By: Walle

H.B. No. 3699

A BILL TO BE ENTITLED

AN ACT

relating to notice to and rights of certain residential tenants of premises purchased at a foreclosure sale.

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

SECTION 1. Section 24.005, Property Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), (b-3), (b-4), and (b-5) to read as follows:

(b) Except as provided by Subsection (b-1), if ~~[If]~~ the occupant is a tenant at will or by sufferance, the landlord must give the tenant at least three days' written notice to vacate before the landlord files a forcible detainer suit unless the parties have contracted for a shorter or longer notice period in a written lease or agreement.

(b-1) If a premises ~~[building]~~ is purchased at a judicial or nonjudicial ~~[tax]~~ foreclosure sale ~~[or a trustee's foreclosure sale]~~ under a lien superior to a tenant's lease and the tenant is a bona fide residential tenant at will or by sufferance on the date of the ~~[timely pays rent and is not otherwise in default under the tenant's lease after]~~ foreclosure, the purchaser must give the ~~[a residential]~~ tenant ~~[of the building]~~ at least 90 ~~[30]~~ days' written notice to vacate before filing a forcible detainer suit ~~[if the purchaser chooses not to continue the lease. The tenant is considered to timely pay the rent under this subsection if, during the month of the foreclosure sale, the tenant pays the rent for that~~

1 ~~month to the landlord before receiving any notice that a~~  
2 ~~foreclosure sale is scheduled during the month or pays the rent for~~  
3 ~~that month to the foreclosing lienholder or the purchaser at~~  
4 ~~foreclosure not later than the fifth day after the date of receipt~~  
5 ~~of a written notice of the name and address of the purchaser that~~  
6 ~~requests payment].~~

7 (b-2) For purposes of this section, a residential tenant is  
8 bona fide only if:

9 (1) the lease was the result of an arms-length  
10 transaction;

11 (2) the lease requires receipt of rent that is not  
12 substantially less than fair market rent for the premises; and

13 (3) the tenant is not the mortgagor of the purchaser at  
14 the foreclosure sale or the child, spouse, or parent of the  
15 mortgagor.

16 (b-3) A bona fide residential tenant of a premises purchased  
17 at a judicial or nonjudicial foreclosure sale may occupy the  
18 premises until the later of:

19 (1) the date provided by the notice to vacate under  
20 Subsection (b-1); or

21 (2) the end of the remaining lease term.

22 (b-4) For purposes of Subsection (b-3), a bona fide  
23 residential tenant may occupy the premises as described by  
24 Subsection (b-3) only if the tenant:

25 (1) owes no delinquent or unpaid rent or other sums  
26 owed to the landlord on the date of the foreclosure sale; and

27 (2) is a party to a lease agreement that is effective

1 on the date of the foreclosure sale.

2       **(b-5)** Before a foreclosure sale, a foreclosing lienholder  
3 may give [~~written notice~~] to a tenant, including a residential  
4 tenant at will or by sufferance or under a written lease or oral  
5 rental agreement, written notice stating that a foreclosure notice  
6 has been given to the landlord or owner of the property and  
7 specifying the date of the foreclosure.

8       SECTION 2. The changes in law made by Section [24.005](#),  
9 Property Code, as amended by this Act, apply only to the purchase of  
10 property at a foreclosure sale on or after the effective date of  
11 this Act. The purchase of property at a foreclosure sale before the  
12 effective date of this Act is governed by the law as it existed  
13 immediately before the effective date of this Act, and that law is  
14 continued in effect for that purpose.

15       SECTION 3. This Act takes effect January 1, 2018.