

BILL ANALYSIS

H.B. 2069
By: Wray
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There are concerns that the manner in which a mortgage servicer must deliver certain notices of sale or notice regarding a debtor in default and the timeliness in which these notices must be delivered are unclear when the debtor is deceased, which can lead to unnecessary litigation and confusion with regard to which party has taken appropriate action. H.B. 2069 seeks to address these concerns by changing requirements relating to the written notice of the sale of real property under a contract lien or the written notice regarding a deceased debtor in default under the deed of trust or other contract lien.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2069 amends the Property Code to require a mortgage servicer to send the written notice of the sale of real property under a contract lien or the written notice regarding a debtor in default under the deed of trust or other contract lien to the independent personal representative of the debtor's estate at the most recent address for the representative as reflected in the records of the probate court in which an independent administration regarding a deceased debtor's estate is pending. The bill excepts the mortgage servicer of the debt from the requirement to send a notice regarding a debtor in default under a deed of trust or other contract lien if the debtor is deceased and is the sole obligor of the debt.

H.B. 2069 requires the mortgage servicer to send to a surviving spouse of a deceased debtor, not later than the 45th day before the date of a sale of real property under a contract lien, notice of such a sale otherwise required to be sent to the debtor if an administration of the debtor's estate was not opened or is not pending and the sale will be held before the fourth anniversary of the debtor's date of death. The bill requires the mortgage servicer, not later than the 45th day before the date of a sale of real property under a contract lien, if an administration of the deceased debtor's estate was not opened before the fourth anniversary after the debtor's date of death, to address the notice of the sale to the deceased debtor and unknown heirs of the debtor and post or send the notice, as applicable, through one of the authorized methods of delivery prescribed in the bill's provisions and to file in the office of the county clerk of each county in which the property is located an affidavit stating the method used to provide the notice and the reason that method was used.

H.B. 2069 prohibits a public sale of a deceased debtor's real property from being held before the 180th day after the date of the debtor's death. The bill establishes that, if notice is given in accordance with the bill's provisions, a subsequent opening of an administration of the debtor's estate, whether dependent or independent, does not affect the validity of a sale of real property under a contract lien that is properly completed. The bill's provisions apply to the sale of real property of a debtor who is deceased and whose debt secured by the deed of trust or other contract lien is in default, regardless of whether the property is a homestead.

EFFECTIVE DATE

September 1, 2019.