

By: Zaffirini

S.B. No. 1440

A BILL TO BE ENTITLED

AN ACT

relating to the effect of a foreclosure on a preexisting residential tenancy.

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), and (b-4) to read as follows:

(b) 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 building is purchased at a tax foreclosure sale or a trustee's foreclosure sale and is occupied by a residential tenant [under a lien superior to the tenant's lease] and the tenant timely pays rent and is not otherwise in default under the tenant's lease or tenancy after foreclosure, the tenant:

(1) may occupy the tenant's unit until the end of the remaining term of the lease if the lease is bona fide and was entered into before the date the title to the building is transferred to a successor in interest pursuant to the foreclosure, except that the successor in interest may terminate the lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, if the successor in interest

1 gives the [~~purchaser must give a residential~~] tenant [~~of the~~  
2 ~~building~~] at least 90 [~~30~~] days' written notice to vacate; or

3 (2) must vacate the tenant's unit if the tenancy is a  
4 bona fide tenancy without a lease or the tenant has a bona fide  
5 lease that is terminable at will if the successor in interest gives  
6 the tenant at least 90 days' written notice to vacate [~~if the~~  
7 ~~purchaser chooses not to continue the lease~~].

8 (b-2) The tenant is considered to timely pay the rent under  
9 Subsection (b-1) [~~this subsection~~] if, during the month of the  
10 foreclosure sale, the tenant pays the rent for that month to the  
11 landlord before receiving any notice that a foreclosure sale is  
12 scheduled during the month or pays the rent for that month to the  
13 foreclosing lienholder or the purchaser at foreclosure not later  
14 than the fifth day after the date of receipt of a written notice of  
15 the name and address of the purchaser that requests payment. Before  
16 a foreclosure sale, a foreclosing lienholder may give written  
17 notice to a tenant stating that a foreclosure notice has been given  
18 to the landlord or owner of the property and specifying the date of  
19 the foreclosure.

20 (b-3) A lease or tenancy is considered to be bona fide for  
21 purposes of Subsection (b-1) only if:

22 (1) the mortgagor or the child, spouse, or parent of  
23 the mortgagor is not the tenant;

24 (2) the lease or tenancy was the result of an  
25 arm's-length transaction; and

26 (3) the lease or tenancy requires the receipt of rent  
27 that is not substantially less than fair market rent for the

1 property or the unit's rent is reduced or subsidized due to a  
2 federal, state, or local subsidy.

3 (b-4) Subsection (b-1) does not affect the requirements for  
4 termination of a government subsidized tenancy.

5 SECTION 2. Section 33.51(b), Tax Code, is amended to read as  
6 follows:

7 (b) The officer charged with executing the writ shall place  
8 the purchaser or the purchaser's assigns in possession of the  
9 property described in the purchaser's deed without further order  
10 from any court and in the manner provided by the writ, subject to  
11 any notice to vacate that may be required to be given to a tenant  
12 under Section 24.005(b-1) [~~24.005(b)~~], Property Code.

13 SECTION 3. This Act takes effect September 1, 2019.