

BILL ANALYSIS

S.B. 372
By: Campbell
Trade, Workforce & Economic Development
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Chapter 51 of the Property Code, which relates to liens created against real property as enforcement of a deed of trust, authorizes a trustee or a substitute trustee to conduct a foreclosure sale and defines both using the term "person." The bill sponsor has informed the committee that the use of the term "person" in this context has raised questions about whether legal entities, such as a governmental entity, corporation, or organization, can serve as a substitute trustee or if this role is limited to a natural human being. A recent Texas attorney general opinion found that a court would likely conclude that a corporate entity is a "person" and thus may serve as a substitute trustee for purposes of conducting a mortgage foreclosure sale under that chapter. The bill sponsor has also informed the committee that although the attorney general's opinion should help clarify this matter, a legislative clarification will help further resolve any lingering confusion. S.B. 372 seeks to clarify the law by explicitly including legal entities in the definitions of a trustee and substitute trustee under Chapter 51 of the Property Code.

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

S.B. 372 amends the Property Code to clarify that a person authorized as a trustee or appointed as a substitute trustee to exercise the power of sale under the terms of a contract lien on real property includes an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or other legal entity so authorized or appointed, as applicable.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.