

By: Oliveira

H.B. No. 2063

A BILL TO BE ENTITLED

AN ACT

relating to the recording and effective date of certain documents  
relating to nonjudicial foreclosure sales.

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

SECTION 1. Chapter 12, Property Code, is amended by adding  
Section 12.0012 to read as follows:

Sec. 12.0012. INSTRUMENTS CONCERNING REAL PROPERTY SUBJECT  
TO A FORECLOSURE SALE. (a) Notwithstanding Section 12.0011(b),  
the following documents received by the county clerk in the manner  
provided by Subsection (b) shall be recorded by the clerk and serve  
as notice of the matter document:

(1) an instrument appointing or authorizing a trustee  
or substitute trustee to exercise the power of sale in a security  
instrument;

(2) a notice of sale pursuant to which the sale under a  
power of sale occurred;

(3) a notice of default on which the sale evidenced by  
a deed conveying title from a trustee or substitute trustee to a  
purchaser occurred;

(4) documentation from the United States Department of  
Defense indicating that a debtor was not on active duty military  
service on the date of a foreclosure sale;

(5) a statement of facts regarding a foreclosure sale  
prepared by an attorney representing the trustee, substitute

trustee, or mortgage servicer; or

(6) proof of service of the mailing of any notice related to a foreclosure sale.

(b) A document described by Subsection (a) shall be accepted for recording pursuant to Subsection (a) if it is attached as an exhibit to:

(1) a deed that conveys title from a trustee or substitute trustee to a purchaser at a foreclosure sale and that meets the requirements for recording under Section 12.0011(b); or

(2) an affidavit of a trustee or substitute trustee that meets the requirements for recording under Section 12.0011(b) and relates to a foreclosure sale.

(c) This section does not prevent the recording of documents in any other manner allowed by law.

SECTION 2. Chapter 51, Property Code, is amended by adding Section 51.0076 to read as follows:

Sec. 51.0076. EFFECTIVE DATE OF APPOINTMENT. The appointment or authorization of a trustee or substitute trustee made in a notice of sale is effective as of the date of the notice if the notice:

(1) complies with Sections 51.002 and 51.0075(e);

(2) is signed by an attorney or agent of the mortgagee or mortgage servicer; and

(3) contains a statement in all capital letters, boldface type, to read as follows:

THIS INSTRUMENT APPOINTS THE SUBSTITUTE TRUSTEE(S)

IDENTIFIED TO SELL THE PROPERTY DESCRIBED IN THE SECURITY

1        INSTRUMENT IDENTIFIED IN THIS NOTICE OF SALE THE PERSON  
2        SIGNING THIS NOTICE IS THE ATTORNEY OR AUTHORIZED AGENT  
3        OF THE MORTGAGEE OR MORTGAGE SERVICER.

4        SECTION 3. The changes to law made by this Act apply only to  
5 a sale for which a notice is required under Section 51.002, Property  
6 Code, on or after the effective date of this Act. A sale for which a  
7 notice is required under Section 51.002, Property Code, before the  
8 effective date of this Act is governed by the law as it existed  
9 immediately before the effective date of this Act, and that law is  
10 continued in effect for that purpose.

11        SECTION 4. This Act takes effect September 1, 2015.