

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5-30-09
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 472 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Craig Ester
Asst. Dir.
Asst. Dir.

Deshotel
Doyle
Doyle

Gian Huffman
On the part of the Senate

HOPSON
Solomon
Thilo
On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 472

A BILL TO BE ENTITLED

1 AN ACT

2 relating to notice required before and period to vacate after
3 foreclosure sale of real property.

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

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

8 (b) If the occupant is a tenant at will or by sufferance,
9 the landlord must give the tenant at least three days' written
10 notice to vacate before the landlord files a forcible detainer
11 suit unless the parties have contracted for a shorter or longer
12 notice period in a written lease or agreement. If a building is
13 purchased at a tax foreclosure sale or a trustee's foreclosure
14 sale under a lien superior to the tenant's lease and the tenant
15 timely pays rent and is not otherwise in default under the
16 tenant's lease after foreclosure, the purchaser must give a
17 residential tenant of the building at least 60 [~~30~~] days'
18 written notice to vacate if the purchaser chooses not to
19 continue the lease. The tenant is considered to timely pay the
20 rent under this subsection if, during the month of the
21 foreclosure sale, the tenant pays the rent for that month to the
22 landlord before receiving any notice that a foreclosure sale is

1 scheduled during the month or pays the rent for that month to
2 the foreclosing lienholder or the purchaser at foreclosure not
3 later than the fifth day after the date of receipt of a written
4 notice of the name and address of the purchaser that requests
5 payment. Before a foreclosure sale, a foreclosing lienholder
6 may give written notice to a tenant stating that a foreclosure
7 notice has been given to the landlord or owner of the property
8 and specifying the date of the foreclosure.

9 (b-1) A purchaser of a property at a foreclosure sale for
10 which notice was given under Section 51.002(b) shall give a
11 tenant or occupant at least 10 days' written notice to vacate
12 before the purchaser may file a forcible detainer suit. The
13 notice must be sent by certified mail and first class mail,
14 postage prepaid, and must include notice on a separate page that
15 states the tenant's rights under this chapter and Chapter 51.
16 The attorney general shall prescribe the contents of the notice.
17 The purchaser may require the tenant to vacate the property
18 before the period prescribed by Section 51.002(i) only for
19 failure to comply with the terms of the lease agreement,
20 including the obligation to pay rent or other payment due under
21 the lease agreement. The notice under this section is deemed
22 delivered when the notice is deposited in the United States
23 mail, postage prepaid and addressed to "tenant" or "occupant."
24 The affidavit of a person knowledgeable of the facts to the
25 effect that service was completed is prima facie evidence of
26 service.

27 SECTION 2. Section 51.002, Property Code, is amended by

1 amending Subsections (b) and (d) and adding Subsections (d-1),
2 (i), and (j) to read as follows:

3 (b) Except as provided by Subsection (b-1), notice of the
4 sale, which must include a statement of the earliest time at
5 which the sale will begin, must be given at least 21 days before
6 the date of the sale by:

7 (1) posting at the courthouse door of each county in
8 which the property is located a written notice designating the
9 county in which the property will be sold;

10 (2) filing in the office of the county clerk of each
11 county in which the property is located a copy of the notice
12 posted under Subdivision (1); and

13 (3) serving written notice of the sale by certified
14 mail and regular mail on each debtor who, according to the
15 records of the mortgage servicer of the debt, is obligated to
16 pay the debt.

17 (d) Notwithstanding any agreement to the contrary, the
18 mortgage servicer of the debt shall serve a debtor in default
19 under a deed of trust or other contract lien on real property
20 used as the debtor's residence with written notice by regular
21 mail and certified mail stating that the debtor is in default
22 under the deed of trust or other contract lien and giving the
23 debtor at least 45 [~~20~~] days to cure the default before notice
24 of sale can be given under Subsection (b). The attorney general
25 shall prescribe the contents of the notice. The entire calendar
26 day on which the notice required by this subsection is given,
27 regardless of the time of day at which the notice is given, is

1 included in computing the 45-day [~~20-day~~] notice period required
2 by this subsection, and the entire calendar day on which notice
3 of sale is given under Subsection (b) is excluded in computing
4 the 45-day [~~20-day~~] notice period.

5 (d-1) In addition to the notice provided by Subsection
6 (d), a mortgage servicer of the debt shall serve the debtor with
7 a written notice by regular and certified mail under this
8 subsection. The notice must be conspicuously printed on a
9 separate sheet of paper that is 8-1/2 by 11 inches or larger and
10 affixed to or enclosed with the notice of default provided under
11 Subsection (d). The attorney general shall prescribe the
12 contents of the notice. The notice must be in English and
13 Spanish and in conspicuous, bold, or underlined print. The
14 notice must include the following:

15 (1) a statement that the notice provided by the
16 mortgage servicer is required by law;

17 (2) a description of the process of foreclosure on a
18 contract lien;

19 (3) a statement that the debtor in default has 45
20 days to cure the default as provided by Subsection (d);

21 (4) a description of the options available to the
22 debtor in default to prevent the foreclosure;

23 (5) a description of resources available to the
24 debtor in default to assist in preventing the foreclosure;

25 (6) a list of resources the debtor may contact for
26 assistance in filing a complaint concerning the foreclosure
27 process; and

1 (7) the name, telephone number, facsimile number, and
2 e-mail address of a person authorized to act for the servicer of
3 the debt relating to the debt.

4 (i) If a sale of property occurs, notwithstanding Chapter
5 24:

6 (1) the tenant of the debtor is not required to
7 vacate the property before the 61st day after the date of the
8 sale, provided that the tenant:

9 (A) timely pays rent to the new property owner;

10 (B) complies with the other material provisions
11 of the lease agreement; and

12 (C) maintains the property in good order; and

13 (2) the debtor is not required to vacate the property
14 before the 14th day after the date of the sale.

15 (j) A debtor who retains possession of the property during
16 the period described by Subsection (i) (2):

17 (1) may not destroy, damage, or commit waste on the
18 property; and

19 (2) is liable:

20 (A) to the purchaser, for the damage caused by a
21 violation of Subdivision (1); and

22 (B) to the injured party, for any injury to an
23 individual or damage to any property occurring during the period
24 of possession described by Subsection (i) (2).

25 SECTION 3. (a) Effective September 1, 2011, Subsection
26 (i), Section 51.002, Property Code, as added by Section 2 of
27 this Act, is amended to read as follows:

1 (i) If a sale of property occurs, notwithstanding Chapter
2 24:

3 (1) the tenant of the debtor is not required to
4 vacate the property before the 31st [~~61st~~] day after the date of
5 the sale, provided that the tenant:

6 (A) timely pays rent to the new property owner;

7 (B) complies with the other material provisions
8 of the lease agreement; and

9 (C) maintains the property in good order; and

10 (2) the debtor is not required to vacate the property
11 before the 14th day after the date of the sale.

12 (b) Effective September 1, 2011, Subsection (b), Section
13 24.005, Property Code, as amended by Section 1 of this Act, is
14 amended to read as follows:

15 (b) If the occupant is a tenant at will or by sufferance,
16 the landlord must give the tenant at least three days' written
17 notice to vacate before the landlord files a forcible detainer
18 suit unless the parties have contracted for a shorter or longer
19 notice period in a written lease or agreement. If a building is
20 purchased at a tax foreclosure sale or a trustee's foreclosure
21 sale under a lien superior to the tenant's lease and the tenant
22 timely pays rent and is not otherwise in default under the
23 tenant's lease after foreclosure, the purchaser must give a
24 residential tenant of the building at least 30 [~~60~~] days'
25 written notice to vacate if the purchaser chooses not to
26 continue the lease. The tenant is considered to timely pay the
27 rent under this subsection if, during the month of the

1 foreclosure sale, the tenant pays the rent for that month to the
2 landlord before receiving any notice that a foreclosure sale is
3 scheduled during the month or pays the rent for that month to
4 the foreclosing lienholder or the purchaser at foreclosure not
5 later than the fifth day after the date of receipt of a written
6 notice of the name and address of the purchaser that requests
7 payment. Before a foreclosure sale, a foreclosing lienholder
8 may give written notice to a tenant stating that a foreclosure
9 notice has been given to the landlord or owner of the property
10 and specifying the date of the foreclosure.

11 SECTION 4. Chapter 51, Property Code, is amended by adding
12 Section 51.013 to read as follows:

13 Sec. 51.013. COMMUNICATION WITH DEBTOR OR DEBTOR'S
14 REPRESENTATIVE AFTER NOTICE OF DEFAULT. (a) After a notice of
15 default is sent under Section 51.002(d) and a written
16 authorization to communicate with a third party is received by
17 the mortgage servicer from the debtor, a mortgage servicer
18 shall communicate with a third party designated in writing by
19 the debtor who provides assistance to the debtor, including a
20 family member, licensed attorney of the debtor, or housing
21 counseling agency approved by the United States Department of
22 Housing and Urban Development.

23 (b) The notice described in Subsection (a) must be sent
24 through the United States Postal Service, by hand delivery, or
25 through electronic means.

26 (c) This section applies only to a lien on residential
27 real property occupied by the debtor as the debtor's homestead.

1 SECTION 5. The changes in law made by this Act apply only
2 to a notice required to be provided on or after September 1,
3 2009. A notice required to be provided before September 1,
4 2009, is governed by the law in effect immediately before that
5 date, and that law is continued in effect for that purpose.

6 SECTION 6. This Act takes effect September 1, 2009.

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No equivalent provision.

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SECTION __. Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.084 to read as follows:

Sec. 2306.084. MORTGAGE DEFAULT AND FORECLOSURE DATA COLLECTION AND REPORT. (a) The board shall prescribe the form and content of the form to be filed with the department under Section 51.0023, Property Code, and procedures for a person to submit the sworn form to the department electronically.

(b) The form prescribed for submission by a mortgage servicer under Section 51.0023(a), Property Code, must request information about the property, the debtor, and other facts surrounding the foreclosure, including:

- (1) the type of lien being foreclosed, as listed in Section 50, Article XVI, Texas Constitution;
- (2) the initial interest rate of the loan;
- (3) the origination and maturity dates of the loan;
- (4) the initial amount of the debt;
- (5) whether the loan allows negative amortization or allows the payment of interest only;
- (6) whether the interest rate could change and, if so, the minimum and maximum rates, the index used, the amount of the margin, how often the rate could adjust, how much the rate could adjust, and the current interest rate being charged;
- (7) whether the loan allows for a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments;
- (8) whether the loan has a prepayment penalty or a

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Same as Senate version.

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universal default provision in which it allows for a change in the interest rate when there is a default by the debtor on any obligation to the lender or any other lender or there is a decrease in the debtor's credit score;

(9) the type of default;

(10) demographics of the debtor;

(11) whether the property was the debtor's residence;

(12) the zip code of the property subject to sale; and

(13) any other information the department finds appropriate to request from the mortgage servicer.

(c) The department shall make the data submitted under Section 51.0023, Property Code, available to the public on the department's Internet website.

(d) Not later than January 1 of each year, the department shall submit a report to the governor, lieutenant governor, speaker of the house of representatives, and attorney general regarding the data collected under Section 51.0023, Property Code. The department shall make the report required under this subsection available to the public on the department's Internet website.

SECTION 1. Section 24.005, Property Code, is amended by amending Subsection (b) and adding Subsection (b-1) 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

SECTION 1. Section 24.005, Property Code, is amended by amending Subsection (b) and adding Subsection (b-1) 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

SECTION 1. Same as House version except as follows as indicated by italicization :

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agreement. If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale 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 after foreclosure, the purchaser must give a residential tenant of the building at least 60 [~~30~~] days' written notice to vacate 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 month to the landlord before receiving any notice that a foreclosure sale is scheduled during the month or pays the rent for that month to the foreclosing lienholder or the purchaser at foreclosure not later than the fifth day after the date of receipt of a written notice of the name and address of the purchaser that requests payment. Before a foreclosure sale, a foreclosing lienholder may give written notice to a tenant stating that a foreclosure notice has been given to the landlord or owner of the property and specifying the date of the foreclosure.

(b-1) A purchaser of a property at a foreclosure sale for which notice was given under Section 51.002(b) shall deliver to the tenant not later than 24 hours after the time of the foreclosure sale

a notice that states the tenant's rights under this chapter and Chapter 51. The attorney general shall prescribe the contents of the notice. The purchaser may require the tenant to vacate the property before the period prescribed

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agreement. If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale 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 after foreclosure, the purchaser must give a residential tenant of the building at least 60 [~~30~~] days' written notice to vacate 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 month to the landlord before receiving any notice that a foreclosure sale is scheduled during the month or pays the rent for that month to the foreclosing lienholder or the purchaser at foreclosure not later than the fifth day after the date of receipt of a written notice of the name and address of the purchaser that requests payment. Before a foreclosure sale, a foreclosing lienholder may give written notice to a tenant stating that a foreclosure notice has been given to the landlord or owner of the property and specifying the date of the foreclosure.

(b-1) A purchaser of a property at a foreclosure sale for which notice was given under Section 51.002(b) shall deliver give a tenant at least ten days' written notice to vacate before the purchaser may file a forcible detainer suit. The notice must be sent by certified mail and must include notice on a separate page

a notice that states the tenant's rights under this chapter and Chapter 51. The attorney general shall prescribe the contents of the notice. The purchaser may require the tenant to vacate the property before the period prescribed

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(b-1) A purchaser of a property at a foreclosure sale for which notice was given under Section 51.002(b) shall give a tenant *or occupant* at least 10 days' written notice to vacate before the purchaser may file a forcible detainer suit. The notice must be sent by certified mail *and first class mail, postage prepaid*, and must include notice on a separate page that states the tenant's rights under this chapter and Chapter 51. The attorney general shall prescribe the contents of the notice. The purchaser may require the tenant to vacate the property before the

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by Section 51.002(i) only for failure to pay rent or other payment due under the lease agreement, including a late fee, as of the date of sale.

SECTION 2. Section 51.002, Property Code, is amended by amending Subsections (b) and (d) and adding Subsections (d-1), (i), and (j) to read as follows:

(b) Except as provided by Subsection (b-1), notice of the sale, which must include a statement of the earliest time at which the sale will begin, must be given at least 21 days before the date of the sale by:

- (1) posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold;
- (2) filing in the office of the county clerk of each county in which the property is located a copy of the notice posted under Subdivision (1); and
- (3) serving written notice of the sale by certified mail and regular mail on each debtor who, according to the records of the mortgage servicer of the debt, is obligated to pay the debt.

(d) Notwithstanding any agreement to the contrary, the

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by Section 51.002(i) only for failure to comply with the terms of the lease agreement, including the obligation to pay rent or other payment due under the lease agreement.

The notice under this section is deemed delivered when the notice is deposited in the United States mail, postage prepaid and addressed to "tenant" or "occupant." The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

SECTION 2. Section 51.002, Property Code, is amended by amending Subsections (b) and (d) and adding Subsections (d-1), (i), and (j) to read as follows:

(b) Except as provided by Subsection (b-1), notice of the sale, which must include a statement of the earliest time at which the sale will begin, must be given at least 21 days before the date of the sale by:

- (1) posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold;
- (2) filing in the office of the county clerk of each county in which the property is located a copy of the notice posted under Subdivision (1); and
- (3) serving written notice of the sale by certified mail and regular mail on each debtor who, according to the records of the mortgage servicer of the debt, is obligated to pay the debt.

(d) Notwithstanding any agreement to the contrary, the

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period prescribed by Section 51.002(i) only for failure to comply with the terms of the lease agreement, including the obligation to pay rent or other payment due under the lease agreement.

The notice under this section is deemed delivered when the notice is deposited in the *United States* mail, postage prepaid and addressed to "tenant" or "occupant." The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

SECTION 2. Similar to House version except omits, in subsection (d-1), subsections () and (D), and omits from subsection (j)(1), also under (d-1) the language, "impair, allow to deteriorate,".

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mortgage servicer of the debt shall serve a debtor in default under a deed of trust or other contract lien on real property used as the debtor's residence with written notice by regular mail and certified mail stating that the debtor is in default under the deed of trust or other contract lien and giving the debtor at least 45 [20] days to cure the default before notice of sale can be given under Subsection (b). The attorney general shall prescribe the contents of the notice. The entire calendar day on which the notice required by this subsection is given, regardless of the time of day at which the notice is given, is included in computing the 45-day [20-day] notice period required by this subsection, and the entire calendar day on which notice of sale is given under Subsection (b) is excluded in computing the 45-day [20-day] notice period.

(d-1) In addition to the notice provided by Subsection (d), a mortgage servicer of the debt shall serve the debtor with a written notice by regular and certified mail under this subsection. The notice must be printed on a separate sheet of canary yellow or a similarly colored yellow paper that is 8-1/2 by 11 inches or larger and affixed to the notice of default provided under Subsection (d).

The attorney general shall prescribe the contents of the notice. The notice must include the following:

- (1) a statement that the notice provided by the mortgage servicer is required by law;
- (2) a description of the process of foreclosure on a

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mortgage servicer of the debt shall serve a debtor in default under a deed of trust or other contract lien on real property used as the debtor's residence with written notice by regular mail and certified mail stating that the debtor is in default under the deed of trust or other contract lien and giving the debtor at least 45 [20] days to cure the default before notice of sale can be given under Subsection (b). The attorney general shall prescribe the contents of the notice. The entire calendar day on which the notice required by this subsection is given, regardless of the time of day at which the notice is given, is included in computing the 45-day [20-day] notice period required by this subsection, and the entire calendar day on which notice of sale is given under Subsection (b) is excluded in computing the 45-day [20-day] notice period.

(d-1) In addition to the notice provided by Subsection (d), a mortgage servicer of the debt shall serve the debtor with a written notice by regular and certified mail under this subsection. The notice must be conspicuously printed on a separate sheet of paper that is 8-1/2 by 11 inches or larger and affixed to or enclosed with the notice of default provided under Subsection (d). The notice must be in English and Spanish and in conspicuous, bold, or underlined print.

The attorney general shall prescribe the contents of the notice. The notice must include the following:

- (1) a statement that the notice provided by the mortgage servicer is required by law;
- (2) a description of the process of foreclosure on a

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contract lien:

- (3) a statement that the debtor in default has 45 days to cure the default as provided by Subsection (d);
- (4) a description of the options available to the debtor in default to prevent the foreclosure;
- (5) a description of resources available to the debtor in default to assist in preventing the foreclosure;

(6) a list of resources the debtor may contact for assistance in filing a complaint concerning the foreclosure process;

(7) a statement that the debtor must serve a copy of the notice of sale on each tenant as prescribed by Section 51.0022; and

(8) the name, telephone number, facsimile number, and e-mail address of a person authorized to act for the servicer of the debt relating to the debt.

(i) If a sale of property occurs, notwithstanding Chapter 24:

(1) the tenant of the debtor is not required to vacate the property before the 61st day after the date of the sale, provided that the tenant:

(A) timely pays rent to the new property owner;

(B) maintains the property in good order; and

(C) maintains a liability insurance policy during the term

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contract lien:

- (3) a statement that the debtor in default has 45 days to cure the default as provided by Subsection (d);
- (4) a description of the options available to the debtor in default to prevent the foreclosure;
- (5) a description of resources available to the debtor in default to assist in preventing the foreclosure;

() a description of the availability of counseling by a housing counselor employed by an agency approved by the United States Department of Housing and Urban Development and the methods to obtain that counseling;

(6) a list of resources the debtor may contact for assistance in filing a complaint concerning the foreclosure process;

(8) the name, telephone number, facsimile number, and e-mail address of a person authorized to act for the servicer of the debt relating to the debt.

(i) If a sale of property occurs, notwithstanding Chapter 24:

(1) the tenant of the debtor is not required to vacate the property before the 61st day after the date of the sale, provided that the tenant:

(A) timely pays rent to the new property owner;

(B) complies with the other material provisions of the lease agreement;

(C) maintains the property in good order; and

(D) maintains a liability insurance policy during the

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of the holdover period; and
(2) the debtor is not required to vacate the property before the 14th day after the date of the sale.
(i) A debtor who retains possession of the property during the period described by Subsection (i)(2):
(1) may not destroy, damage, impair, allow to deteriorate, or commit waste on the property; and
(2) is liable:
(A) to the purchaser, for the damage caused by a violation of Subdivision (1); and
(B) to the injured party, for any injury to an individual or damage to any property occurring during the period of possession described by Subsection (i)(2).

SECTION 3. Chapter 51, Property Code, is amended by adding Section 51.0022 to read as follows:
Sec. 51.0022. NOTICE OF SALE TO TENANT. Not later than the seventh day after the date a debtor receives a notice of sale under Section 51.002(b), the debtor shall serve a copy of the notice on each tenant of the property by any one of the following methods:
(1) personal delivery to the tenant;
(2) certified mail, return receipt requested, to the tenant;
or
(3) leaving the notice inside the dwelling, as defined by Section 92.001, in a conspicuous place if notice in that manner is authorized in a written lease.

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term of the holdover period; and
(2) the debtor is not required to vacate the property before the 14th day after the date of the sale.
(i) A debtor who retains possession of the property during the period described by Subsection (i)(2):
(1) may not destroy, damage, impair, allow to deteriorate, or commit waste on the property; and
(2) is liable:
(A) to the purchaser, for the damage caused by a violation of Subdivision (1); and
(B) to the injured party, for any injury to an individual or damage to any property occurring during the period of possession described by Subsection (i)(2).

No equivalent provision.

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Same as House version.

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No equivalent provision.

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SECTION __. Chapter 51, Property Code, is amended by adding Section 51.0023 to read as follows:

Sec. 51.0023. DATA COLLECTION REGARDING RESIDENTIAL PROPERTY OCCUPIED BY TENANT. (a) A mortgage servicer who files a notice of sale under Section 51.002(b) regarding residential real property known by the mortgage servicer to be occupied by a tenant must submit to the Texas Department of Housing and Community Affairs a completed and sworn form prescribed by the board of the department under Section 2306.084(b), Government Code. The form must be submitted electronically in the manner prescribed by the board.

(b) If information requested by the form is unknown by the mortgage servicer, the mortgage servicer must provide the information that is known and submit an affidavit to the Texas Department of Housing and Community Affairs based on personal knowledge that the mortgage servicer made a diligent inquiry and has been unable to locate the information requested.

Same as Senate version.

No equivalent provision.

SECTION __. Chapter 51, Property Code, is amended by adding Section 51.013 to read as follows:

Sec. 51.013. COMMUNICATION WITH DEBTOR OR DEBTOR'S REPRESENTATIVE AFTER NOTICE OF DEFAULT. (a) After a notice of default is sent under Section 51.002(d) and a written authorization to communicate with a third party is received by the mortgage servicer from the debtor, a mortgage servicer

SECTION __. Same as House version.

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shall communicate with the third party designated in writing by the debtor who provides assistance to the debtor, including a family member, licensed attorney of the debtor, or housing counseling agency approved by the United States Department of Housing and Urban Development.

(b) The notice described in Subsection (a) must be sent through the United States Postal Service, by hand delivery, or through electronic means.

(c) This section applies only to a lien on residential real property occupied by the debtor as the debtor's homestead.

SECTION 4. (a) Effective September 1, 2011, Subsection (i), Section 51.002, Property Code, as added by Section 2 of this Act, is amended to read as follows:

(i) If a sale of property occurs, notwithstanding Chapter 24:

(1) the tenant of the debtor is not required to vacate the property before the 31st [~~61st~~] day after the date of the sale, provided that the tenant:

(A) timely pays rent to the new property owner;

(B) maintains the property in good order; and

(C) maintains a liability insurance policy during the term of the holdover period; and

(2) the debtor is not required to vacate the property before the 14th day after the date of the sale.

(b) Effective September 1, 2011, Subsection (b), Section 24.005, Property Code, as added by Section 1 of this Act,

Same as Senate version.

SECTION 4. Substantially the same as Senate version except omits the provision requiring the tenant to maintain a liability insurance policy during the term of the holdover period, and adds a provision requiring the tenant to comply with the other material provisions of the lease agreement.

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is amended 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. If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale 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 after foreclosure, the purchaser must give a residential tenant of the building at least 30 [~~60~~] days' written notice to vacate 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 month to the landlord before receiving any notice that a foreclosure sale is scheduled during the month or pays the rent for that month to the foreclosing lienholder or the purchaser at foreclosure not later than the fifth day after the date of receipt of a written notice of the name and address of the purchaser that requests payment. Before a foreclosure sale, a foreclosing lienholder may give written notice to a tenant stating that a foreclosure notice has been given to the landlord or owner of the property and specifying the date of the foreclosure.

SECTION 5. The changes in law made by this Act

SECTION 5. Sections 24.005 and 51.002, Property Code, as amended by this Act, and Section 51.0022,

Same as Senate version.

Senate Bill 472
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

apply only to a notice required to be provided on or after September 1, 2009. A notice required to be provided before September 1, 2009, is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

No equivalent provision.

SECTION 6. This Act takes effect September 1, 2009.

HOUSE VERSION

Property Code, as added by this Act, apply only to a notice required to be provided on or after September 1, 2009. A notice required to be provided before September 1, 2009, is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION __. (a) Not later than November 1, 2009, the board of the Texas Department of Housing and Community Affairs shall prescribe the forms and procedures required by Section 2306.084, Government Code, as added by this Act.

(b) Section 51.0023, Property Code, as added by this Act, applies only to a sale of residential real property in which notice of sale under Section 51.002, Property Code, is provided on or after December 1, 2009. A sale in which notice of sale is provided before December 1, 2009, is subject to the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Same as Senate version.

CONFERENCE

Same as Senate version.

Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 31, 2009

TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB472 by Estes (Relating to notice required before and period to vacate after foreclosure sale of real property.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would amend the Property Code relating to the notice required before and period to vacate after a foreclosure of real property. Based on the analysis of the OAG, the Department of Savings and Mortgage Lending, the Office of Consumer Credit, and the Department of Banking, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2009.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner

LBB Staff: JOB, MN, SD, JRO, MW, ACa