

## CHAPTER 540

## H.B. No. 1504

## AN ACT

relating to the sale of real property under a power of sale conferred by a contract lien.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 51.002, Property Code, is amended to read as follows:

Sec. 51.002. **SALE OF REAL PROPERTY UNDER CONTRACT LIEN.** (a) A sale of real property under a power of sale conferred by a deed of trust or other contract lien must be a public sale at auction held between 10 a.m. and 4 p.m. of the first Tuesday of a month. The sale must take place *at the county courthouse* in the county in which the land is located, or if the property is located in more than one county, the sale may be made *at the courthouse* in any county in which the property is located. *The commissioners court shall designate the area at the courthouse where the sales are to take place and shall record the designation in the real property records of the county. The sale must occur in the designated area. If no area is designated by the commissioners court, the notice of sale must designate the area at the courthouse where the sale covered by that notice is to take place, and the sale must occur in that area.*

(b) Notice of the sale, *which must include a statement of the earliest time at which the sale will occur*, must be given at least 21 days before the date of the sale:

(1) by 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) by 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) by the holder of the debt to which the power of sale is related serving written notice of the sale by certified mail on each debtor who, according to the records of the holder of the debt, is obligated to pay the debt.

(c) *The sale must begin at the time stated in the notice of sale or not later than three hours after that time.*

(d) *Notwithstanding any agreement to the contrary, the holder 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 certified mail stating that the debtor is in default under the deed of trust or contract. The debtor must be given at least 20 days to cure the default before the entire debt is due and notice of sale is given.*

(e) [(e)] Service of a notice *under this section* by certified mail is complete when the notice is deposited in the United States mail, postage prepaid and addressed to the debtor at the debtor's last known address as shown by the records of the holder of the debt. The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

(f) [(d)] Each county clerk shall keep all notices filed under Subdivision (2) of Subsection (b) in a convenient file that is available to the public for examination during normal business hours. The clerk may dispose of the notices after the date of sale specified in the notice has passed. The clerk shall receive a fee of \$2 for each notice filed.

SECTION 2. This Act takes effect January 1, 1988.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the

constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 23, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1504 on May 19, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 15, 1987, by a viva-voce vote.

Approved June 17, 1987.

Effective Jan. 1, 1988.