

- SUBJECT:** Specifying the process for rescinding the acceleration of a mortgage
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 7 ayes — Oliveira, Simmons, Collier, Fletcher, Rinaldi, Romero, Villalba
0 nays
- WITNESSES:** For — Brian Engel, Barrett, Daffin, Frappier, Turner, and Engel; Mark Hopkins; (*Registered, but did not testify*: Thomas Tallent, Cendera Funding, Inc.; Brian Yarbrough, JPMorgan Chase; Vicki Truitt, Mackie, Wolf, Zientz, and Mann; Daniel Gonzalez, Texas Association of Realtors; John Heasley, Texas Bankers Association; Kelly Rodgers, Wells Fargo Bank)

Against — None

On — Karen Neeley, Independent Bankers Association of Texas; John Fleming, Texas Mortgage Bankers Association; (*Registered, but did not testify*: Caroline Jones, Texas Department of Savings and Mortgage Lending; Robert Doggett, Texas Family Council)
- BACKGROUND:** Before a lender can foreclose on a mortgage, it often must first accelerate the loan. Lenders and borrowers usually work out an arrangement to rescind the acceleration so borrowers can stay in their homes. Texas law does not explicitly address what happens when a lender and a borrower arrange a deal to rescind an acceleration.
- DIGEST:** Under CSHB 2067, if the maturity date of a series of notes or obligations or a note or obligation payable in installments was accelerated, and the accelerated maturity date was rescinded or waived before the limitation period expired, the obligation or series of notes or obligations would be governed as if no acceleration had occurred. The rescission would have to be:
- made in writing by first-class or certified mail;

- served by the lienholder, the servicer of the debt, or an attorney representing the lienholder; and
- served on all debtors who were obligated to pay the debt at their last known address.

Notice served under CSHB 2067 would not affect a lienholder's right to accelerate the loan in the future, nor would it waive past defaults. The bill would not create an exclusive method for waiving or rescinding the acceleration of a loan. It also would not affect the accrual of a cause of action and the running of the related limitations period on any subsequent maturity date of the note or obligation or series of notes or obligations.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015, and would apply to a maturity date accelerated or an acceleration that was rescinded before, on, or after that date.