

BILL ANALYSIS

Senate Research Center

H.B. 2067
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law lacks a clear method for rescinding the accelerated maturity date of a loan once it has been accelerated. Borrowers, lenders, and loan servicers subsequently may be inhibited from exploring options for a borrower seeking loss mitigation and extended payment periods. H.B. 2067 provides that if the maturity date of a series of notes or obligations or a note or obligation payable in installments and secured by a real property lien is accelerated and the accelerated maturity date is rescinded or waived before the limitations period expires, the acceleration is deemed rescinded and waived and the note, obligation, or series of notes or obligations is to be governed by statutory provisions relating to real property liens as if no acceleration had occurred.

H.B. 2067 amends current law relating to the rescission or waiver of an acceleration of the maturity date of certain debt secured by a lien on real property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 16, Civil Practice and Remedies Code, by adding Section 16.038, as follows:

Sec. 16.038. RESCISSION OR WAIVER OF ACCELERATED MATURITY DATE.

(a) Provides that if the maturity date of a series of notes or obligations or a note or obligation payable in installments is accelerated, and the accelerated maturity date is rescinded or waived in accordance with this section before the limitations period expires, the acceleration is deemed rescinded and waived and the note, obligation, or series of notes or obligations shall be governed by Section 16.035 (Lien on Real Property) as if no acceleration had occurred.

(b) Provides that rescission or waiver of acceleration is effective if made by a written notice of a rescission or waiver served as provided in Subsection (c) by the lienholder, the servicer of the debt, or an attorney representing the lienholder on each debtor who, according to the records of the lienholder or the servicer of the debt, is obligated to pay the debt.

(c) Requires service of a notice under Subsection (b) to be by first class or certified mail and provides that it 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. Provides that the affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

(d) Provides that a notice served under this section does not affect a lienholder's right to accelerate the maturity date of the debt in the future nor does it waive past defaults.

(e) Provides that this section does not create an exclusive method for waiver and rescission of acceleration or affect the accrual of a cause of action and the running of the related limitations period under Section 16.035(e) (relating to the applicability of the four-year limitations period) on any subsequent maturity date, accelerated or otherwise, of the note or obligation or series of notes or obligations.

SECTION 2. Provides that the change in law made by this Act applies with respect to a maturity date accelerated before, on, or after the effective date of this Act and any notice of a rescission or waiver of an accelerated maturity date served before, on, or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2015.