

BILL ANALYSIS

Senate Research Center
82R19982 PMO-F

H.B. 1127
By: Gutierrez (Van de Putte)
Veteran Affairs & Military Installations
5/4/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1127 amends the Property Code to require a notice in regard to the sale of real property under a deed of trust or other contract lien that is served on a debtor in default under that trust or lien to include a statement to the effect that a tenant or debtor, as applicable, who is serving on active military duty may have special rights or relief related to that notice under federal law, including the federal Servicemembers Civil Relief Act, and under state law. The bill requires the notice to a defendant in the citation in a suit filed by a landlord seeking to recover possession of the premises to include a similar statement relative to a tenant's special rights or relief in regard to that suit if the tenant is serving on active military duty.

H.B. 1127 adds a requirement for the notice that must be given to a property owner by a property owners' association before the association is authorized to take certain actions against the owner to inform the owner that the owner may have special rights or relief related to the enforcement action under federal law, including the federal Servicemembers Civil Relief Act, if the owner is serving on active military duty.

H.B. 1127 amends current law relating to notice of relief available to certain members of the military required to be provided in certain real property documentation.

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 Section 24.0051(d), Property Code, as follows:

(d) Requires the citation required by Rule 739 (Citation), Texas Rules of Civil Procedure, in a suit described by Subsection (c) (relating to a suit to recover possession of the premises), to include a certain notice to the defendant on the first page of the citation in English and Spanish and in conspicuous bold print. Sets forth the text of the notice.

SECTION 2. Amends Section 51.002, Property Code, by adding Subsection (i), as follows:

(i) Requires that a notice served on a debtor under this section contain, in addition to any other statements required under this section, language substantially similar to the following:

"A debtor who is serving on active military duty may have special rights of relief related to this notice under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), and state law, including Section 51.015 (Sale of Certain Property Owned By a Member of the Military), Texas Property Code."

SECTION 3. Amends Section 209.006(b), Property Code, as follows:

(b) Requires that the notice contain certain information, including that it inform the owner that the owner is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; may request a hearing under Section 209.007 (Hearing Before Board; Alternative Dispute Resolution) on or before the 30th day after the date the owner receives the notice; and may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the owner is serving on active military duty.

SECTION 4. Makes application of the change in law made by Section 24.0051, Property Code, as amended by this Act, prospective.

SECTION 5. Makes application of the change in law made by Section 51.002, Property Code, as amended by this Act, prospective.

SECTION 6. Makes application of the change in law made by Section 209.006, Property Code, as amended by this Act, prospective.

SECTION 7. Effective date: January 1, 2012.