

45 ~~[(3)]~~ ~~{(2)}~~ (b) ~~[after the lapse of at least three months]~~ the trustee ~~[shall give]~~ gives notice of

8. *Page 2, Line 47:*

47 from the time the trustee files a notice of default for record under Subsection (1).

(3) By mutual consent, a special servicer and trustor may communicate and negotiate with each other through a mediator.

(4) Within five days after filing a notice of default under Subsection (2), a trustee shall send a copy of the notice of default by certified mail, return receipt requested, to the trustor at the address of the trust property.

(5) If a special servicer negotiates with a trustor regarding possible foreclosure relief, the special servicer may give reasonable consideration to:

(a) how long the trustor has lived at the trust property, the trustor's payment history over the life of the loan before default, the circumstances, including any hardship, that led to the trustor's inability to meet the obligations of the loan, the reasonable likelihood that those circumstances would be resolved if the trustor were given foreclosure relief or a loan modification, and any other equitable factors relevant to the trustor's circumstances;

(b) the market value of the trust property and the financial interests that the special servicer represents; and

(c) any mutually acceptable reasonable alternative to foreclosure, including a loan modification or forbearance, a discounted payoff, and a deed in lieu of foreclosure.

1st Sub. H.B. 379

NONJUDICIAL FORECLOSURE OF TRUST DEEDS

SENATE FLOOR AMENDMENTS

AMENDMENT 1

MARCH 4, 2011 6:54 PM

Senator **Kevin T. Van Tassell** proposes the following amendments:

1. *Page 2, Line 27:*

27 [~~The power of sale conferred upon the~~]

(1) As used in this section:

(a) "Residential property" means trust property that consists of a residential dwelling for one to four families.

(b) "Special servicer" means a person who has authority from a beneficiary to negotiate on behalf of and act for the beneficiary with respect to the obligation secured by the trust deed.

(2) A trustee who is qualified under Subsection

2. *Page 2, Line 30:*

30 {~~(b)~~} **(a)** the trustee [~~first~~] files for record, in the office of the recorder of each county where

3. *Page 2, Line 33:*

33 {~~(a)~~} **(i)** identifies the trust deed by stating the name of the trustor named in the trust deed

4. *Page 2, Line 36:*

36 {~~(b)~~} **(ii)** contains a statement that a breach of an obligation for which the trust property was

5. *Page 2, Lines 38 through 39:*

38 {~~(c)~~} **(iii)** states the trustee's election to sell the property or cause [~~to be sold~~] the property to
39 be sold to satisfy the obligation; {~~and~~}

6. *Page 2, Line 42:*

42 {~~(d)~~} **(iv)** includes information sufficient to enable the trustor to contact a local housing

7. *Page 2, Lines 44 through 45:*

44 Development; and

(v) includes the name, address, telephone number, and email address of a special servicer if:
(A) there is a special servicer with respect to the trust deed that is the subject of the notice of default; and

(B) the trust property is residential property; and