

HOUSE BILL 49

By Gilmore

AN ACT to amend Tennessee Code Annotated, Title 35,  
Chapter 5, Part 1, relative to foreclosure.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 35-5-101(b), is amended by deleting the language in its entirety and by substituting instead the following language:

(b)

(1) Except as provided in subdivision (2), the first publication shall be at least twenty (20) days previous to the sale.

(2) With regard to an owner-occupied single family residence, the first publication shall be at least sixty (60) days previous to the sale.

SECTION 2. Tennessee Code Annotated, Section 35-5-101, is further amended by adding the following language as a new subsection (f):

(f)

(1) With regard to an owner-occupied single family residence, if the debtor contacts the trustee or financial institution within ten (10) days of the date the notice required pursuant to subsection (e) was sent to the debtor, and the debtor indicates a desire to arrive at an equitable and just solution with the financial institution concerning more affordable terms and conditions on the loan, mortgage or deed of trust on which the debtor is in default, the trustee or financial institution shall delay any further efforts to foreclose the deed of trust, mortgage or other lien securing the payment of money or other thing of value and enter into good faith negotiations with the debtor to achieve such a solution. Such good

faith negotiation period shall not be required to exceed seven (7) months from the date such notice was sent to the debtor.

(2) Unless the debtor files for bankruptcy protection, once the debtor contacts the trustee or financial institution and during the period of good faith negotiations, the debtor shall not be required to pay more than thirty-one percent (31%) of the debtor's gross monthly income per month to the trustee or financial institution toward the loan, mortgage or deed of trust; provided, however, that the trustee or financial institution may require payments to be made at the same frequency as required by the terms of the loan, mortgage or deed of trust. The debtor and the trustee or financial institution may agree through good faith negotiations to a payment of a greater amount if the debtor has sufficient financial resources to pay such amount.

(3) If, during such seven (7) month period, the parties are unable to arrive at an equitable and just solution in renegotiating new terms and conditions, then the trustee or financial institution is under no obligation to further delay the sale of land to foreclose the loan, mortgage or deed of trust.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.