

SENATE BILL 36

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 29;  
Title 35; Title 45; Title 47 and Title 66, relative to  
certain evictions involving foreclosures.

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

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 50, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section \_\_\_\_.

(a) As used in this section, the term “lender” means any person or financial institution that holds a land contract, mortgage, or deed of trust for which a single family residence located in this state is pledged as collateral to secure such debt.

(b)

(1) On or after the effective date of this act, any land contract, mortgage or deed of trust for which a single family residence located in this state is pledged as collateral to secure such debt shall include a provision that prohibits the lender from instituting foreclosure proceedings on such property which would result in the eviction of a tenant residing in such residence, if the fee simple owner of such property has entered into a lease to rent such single family residence and the tenant is current on the lease payments.

(2) If such a lease is entered into on such property at any time during the term of such contract, mortgage or deed of trust, the debtor shall file a copy of such lease in the register of deed’s office in the county where the property is located and forward to the lender a copy of such lease together with the book and page number related to the recorded document.

(c) Any lease executed by the fee simple owner to rent a single family residence which has been pledged as collateral to secure a mortgage, deed of trust or land contract identified in subsection (b), shall include a sufficient reference to identify such commercial instrument. In addition, such a lease shall have a complementary provision to that required pursuant to subsection (b) and a copy of this act shall be attached to the lease to provide notice to the tenant of the tenant's rights under the provisions of this act.

(d) If the debtor is in default on the land contract, mortgage, or deed of trust identified in subsection (b) to the point where a lender generally would begin foreclosure proceedings, at the time the publication required pursuant to § 35-5-101 is made previous to a foreclosure, the lender shall send a notice to the most recent lessee/tenant identified in the lease in the possession of the lender as required in subsection (a). Such notice shall give the tenant the opportunity to prove to the satisfaction of the lender that the tenant is current on the lease payments and, if this is the case, the tenant shall be instructed to forward all remaining payments due under the lease to the lender until the expiration of the lease. If the tenant continues to make timely payments to the lender until the expiration of the lease, following the expiration of such lease, the lender is under no further obligation under this act to delay foreclosure proceedings.

(e) If the lender under any land contract, mortgage or deed of trust entered into prior to the effective date of this act for which a single family residence located in this state is pledged as collateral to secure the debt, has knowledge that the debtor has entered into a lease to rent such property, such lender is encouraged to delay foreclosure proceedings on such property so long as the tenant under such lease is current on the lease payments and instead to follow the procedures included in subsection (d).

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

(f) On or after the effective date of this act, the provisions of this subsection and part shall be delayed following the first publication, until the provisions of Section 1 of this act have been concluded.

SECTION 3. Tennessee Code Annotated, Section 66-24-101(a), is amended by adding the following language as a new, appropriately designated subdivision:

( ) Any lease executed by the fee simple owner to rent a single family residence which has been pledged as collateral to secure a mortgage, deed of trust or land contract identified in subsection (a) of Section 1 of this act;

SECTION 4. This act shall take effect July 1, 2009, the public welfare requiring it.