

HOUSE BILL 3588

By Coleman

AN ACT to amend Tennessee Code Annotated, Titles 35
and 45 relative to legal notices of foreclosure.

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

SECTION 1. Tennessee Code Annotated, Title 35, Chapter 5, Part 1, is amended by
adding the following new section thereto:

§ 35-5-117.

(a) Prior to the first publication of a notice of a foreclosure sale of a deed
of trust, mortgage or other lien securing the payment of money or other thing of
value on an owner-occupied residence pursuant to § 35-5-101, the lender,
trustee or other creditor shall send to the debtor a notice of the right to foreclose.

(b) The notice of right to foreclose shall be sent no less than sixty (60)
days prior to first publication required by § 35-5-101.

(c) The notice of right to foreclose shall be sent to the last known mailing
address of:

(1) The principal debtor; and

(2) Any co-debtor or guarantor, but only if the address of the co-
debtor or guarantor is different from the address of the principal debtor.

(d) The notice of right to foreclose shall be sent by regular mail. The
notice of right to foreclose shall be effective upon deposit with the United States
postal service and shall be effective for any foreclosure sale initiated by
publication pursuant to § 35-5-101, after sixty (60) days and within twelve (12)
months of sending such notice of right to foreclose pursuant to this subsection
(d).

(e) The notice of right to foreclose shall be sent in a separate mailing.

(f) The notice of right to foreclose shall contain sufficient information to permit the debtor to contact the lender, servicer or creditor and federal government officials responsible for any existing loan modification program to discuss the account and the options that may be available to the debtor. The lender, servicer or creditor shall include in the notice of right to foreclose the internet web site address of the department of housing and urban development and may include other governmental agencies that are operating existing loan modification programs, of which the lender, servicer or creditor is aware. The lender, servicer or creditor shall provide such information about persons authorized by the lender, servicer or creditor to assist debtors in applying for such loan modification programs. The notice shall include content in a form similar to the following; provided, however, that the lender, servicer or creditor may delete all references in the notice to federal loan modification programs if no such programs are in existence at the time the notice of right to foreclose is mailed to the debtor.

NOTICE OF RIGHT TO FORECLOSE

Date of Notice: _____

The holder of the mortgage, deed of trust or other lien on your property has the right to begin the process of foreclosing on the debt and may sell your property at public auction to satisfy the debt at any time after sixty (60) days from the date of this notice of right to foreclose for a period of twelve (12) months without sending you another notice of right to foreclose.

You should IMMEDIATELY contact the lender, servicer or creditor listed below to discuss repayment options for which you may qualify, or if none are available, foreclosure alternatives such as short sale or deed in lieu of foreclosure. Failure to satisfy your payment obligations may result in loss of your home.

You may also be eligible for certain federal loan modification programs. You should review your options under these programs immediately at the

Department of Housing and Urban Development web site (www.HUD.gov) and at other applicable web sites or consult an attorney. If you wish to participate in one of these programs, you must make timely application as required by the program. You should notify the lender, servicer or creditor of your interest in participating in one of these programs.

YOU MUST ACT IMMEDIATELY IF YOU WISH TO TRY TO SAVE YOUR HOME

Name of creditor: _____

Address of creditor: _____

Phone: _____ Fax: _____

Web site and e-mail address: _____

Contact person: _____

Government Loan Modification Program Web site and contact information: _____

(g) For purposes of this section, "owner-occupied residence" means a one-to-four family residence purchased and occupied as the principal residence of the debtor.

(h) The provisions of this section shall not apply to any:

(1) Judicial sale ordered or conducted by any court;

(2) Sale conducted by a trustee in bankruptcy; or

(3) Sale conducted after a bankruptcy petition is filed and either the automatic stay has been lifted by the bankruptcy court or the bankruptcy petition has been dismissed or withdrawn.

SECTION 2. This act shall take effect on July 1, 2010, and shall apply to any applicable foreclosure that is initiated by publication in accordance with § 35-5-101, on or after September 1, 2010, the public welfare requiring it.