

SENATE BILL 3891

By Southerland

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 3 and Title 35, Chapter 5, relative to judicial or trust sales.

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

SECTION 1. Tennessee Code Annotated, Section 35-5-101, is amended by deleting the words “advertisement of the sale shall be made” and by instead inserting the words “file a notice of foreclosure with the office of the secretary of state and advertise the sale”.

SECTION 2. Tennessee Code Annotated, Section 35-5-101, is further amended by designating subsection (a) as subsection (a)(1), by deleting subsection (b) in its entirety, and by adding the following as a new subsection (a)(2):

(a)

(2) The filing of the notice of foreclosure with the secretary of state and the first advertisement of sale in an appropriate newspaper shall be at least twenty (20) days previous to the scheduled sale date. The scheduled sale date may be postponed or delayed one or more times by making an announcement at the place of sale, on the scheduled date and time of sale, to a succeeding date and time without the requirement of providing further notice or advertisement.

SECTION 3. Tennessee Code Annotated, Section 35-5-101, is further amended by inserting the following as new subdivisions:

(a)

(3) The contents of the advertisement in the newspaper shall contain only the information specifically required under Tennessee Code Annotated, Section 35-5-104(a)(2), and shall not include any other additional information.

(b)

(1) In any sale of land to foreclose a deed of trust, mortgage or other lien securing the payment of money or other thing of value or under judicial orders or process, notice of the foreclosure shall be filed with the office of the secretary of state and posted on the secretary of state's website.

(2) The notice of foreclosure filed with the office of the secretary of state shall contain the information required under Tennessee Code Annotated, Section 35-5-104(a)(1), and a filing fee in the amount designated by the secretary of state not to exceed fifty dollars (\$50).

SECTION 4. Tennessee Code Annotated, Section 35-5-104 (a), is amended by deleting the words "advertisement or notice" and by inserting instead the words "notice of foreclosure".

SECTION 5. Tennessee Code Annotated, Section 35-5-104, is further amended by renumbering subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and adding the following as a new subsection (b):

(b) The advertisement of sale in a newspaper shall:

- (1) State "Foreclosure Sale" in the first line;
- (2) Give the names of the plaintiff and defendant, or parties interested;
- (3) Give the street address or rural route number of the property; but, if neither a street address or rural route is available give the map and parcel number of the property, or other information sufficient to identify the physical location of the property, but shall not include the legal description of the property;
- (4) State if there are any known liens, including tax liens; but shall not identify or otherwise describe any liens;
- (5) Give the date, time and place of the sale; and

(6) State that the office of the secretary of state's website contains the notice of foreclosure, and provide the appropriate website address for the office of secretary of state.

SECTION 6. Tennessee Code Annotated, Section 8-3-104, is amended by adding the following as a new subsection:

() Establish and maintain a system for filing notices of foreclosure and a webpage on the secretary of state's website for posting notices of foreclosure in accordance with Tennessee Code Annotated, Section 35-5-104(a) and post all foreclosure notices properly submitted.

SECTION 7. For the purpose of enabling the secretary of state to develop and establish a web site to implement the purposes of this act, the provisions of section 5 shall take effect on July 1, 2010, the public welfare requiring it; for all other purposes, this act shall take effect on January 1, 2011.