

Tex. Prop. Code § 51.002

Section 51.002 - Sale of Real Property Under Contract Lien

(a) Except as provided by Subsection (a-1), a sale of real property under a power of sale conferred by a deed of trust or other contract lien must be a public sale at auction held between 10 a.m. and 4 p.m. of the first Tuesday of a month. Except as provided by Subsection (h), the sale must take place at the county courthouse in the county in which the land is located, or if the property is located in more than one county, the sale may be made at the courthouse in any county in which the property is located. The commissioners court shall designate the area at the courthouse where the sales are to take place and shall record the designation in the real property records of the county. The sale must occur in the designated area. If no area is designated by the commissioners court, the notice of sale must designate the area where the sale covered by that notice is to take place, and the sale must occur in that area.

(a-1) If the first Tuesday of a month occurs on January 1 or July 4, a public sale under Subsection (a) must be held between 10 a.m. and 4 p.m. on the first Wednesday of the month.

(b) Except as provided by Subsection (b-1), notice of the sale, which must include a statement of the earliest time at which the sale will begin, must be given at least 21 days before the date of the sale by:

- (1)** posting at the courthouse door of each county in which the property is located a written notice designating the county in which the property will be sold;
- (2)** filing in the office of the county clerk of each county in which the property is located a copy of the notice posted under Subdivision (1); and
- (3)** serving written notice of the sale by certified mail on each debtor who, according to the records of the mortgage servicer of the debt, is obligated to pay the debt.

(b-1) If the courthouse or county clerk's office is closed because of inclement weather, natural disaster, or other act of God, a notice required to be posted at the courthouse under Subsection (b)(1) or filed with the county clerk under Subsection (b)(2) may be posted or filed, as appropriate, up to 48 hours after the courthouse or county clerk's office reopens for business, as applicable.

(c) The sale must begin at the time stated in the notice of sale or not later than three hours after that time.

(d) Notwithstanding any agreement to the contrary, the mortgage servicer of the debt shall serve a debtor in default under a deed of trust or other contract lien on real property used as the debtor's residence with written notice by certified mail stating that the debtor is in default under the deed of trust or other contract lien and giving the debtor at least 20 days to cure the default before notice of sale can be given under Subsection (b). The entire calendar day on which the notice required by this subsection is given, regardless of the time of day at which the notice is given, is included in computing the 20-day notice period required by this

subsection, and the entire calendar day on which notice of sale is given under Subsection (b) is excluded in computing the 20-day notice period.

(e) Service of a notice under this section by certified mail is complete when the notice is deposited in the United States mail, postage prepaid and addressed to the debtor at the debtor's last known address. The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

(f) Each county clerk shall keep all notices filed under Subdivision (2) of Subsection (b) in a convenient file that is available to the public for examination during normal business hours. The clerk may dispose of the notices after the date of sale specified in the notice has passed. The clerk shall receive a fee of \$2 for each notice filed.

(f-1) A county shall prominently post a notice of sale filed with the county clerk under Subsection (b)(2) on the county's Internet website on a page where the county posts other auction information and that is publicly available for viewing without charge or registration. Along with each notice of sale posted under this subsection, the county must post the date, time, and location of the sale on the same website page on which the notice is posted.

(g) The entire calendar day on which the notice of sale is given, regardless of the time of day at which the notice is given, is included in computing the 21-day notice period required by Subsection (b), and the entire calendar day of the foreclosure sale is excluded.

(h) For the purposes of Subsection (a), the commissioners court of a county may designate an area other than an area at the county courthouse where public sales of real property under this section will take place that is in a public place within a reasonable proximity of the county courthouse as determined by the commissioners court and in a location as accessible to the public as the courthouse door. The commissioners court shall record that designation in the real property records of the county. A designation by a commissioners court under this section is not a ground for challenging or invalidating any sale. A sale must be held at an area designated under this subsection if the sale is held on or after the 90th day after the date the designation is recorded. The posting of the notice required by Subsection (b)(1) of a sale designated under this subsection to take place at an area other than an area of the courthouse remains at the courthouse door of the appropriate county.

(i) Notice served on a debtor under this section must state the name and address of the sender of the notice and contain, in addition to any other statements required under this section, a statement that is conspicuous, printed in boldface or underlined type, and substantially similar to the following: "Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately."

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Amended by Acts 2023, Texas Acts of the 88th Leg.- Regular Session, ch. 268,Sec. 1, eff. 9/1/2023.

Amended by Acts 2017, Texas Acts of the 85th Leg. - Regular Session, ch. 133,Sec. 3, eff. 9/1/2017.

Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 642,Sec. 2, eff. 10/1/2013.

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Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 52, Sec. 1, eff. 9/1/2013.

Amended By Acts 2011, 82nd Leg., R.S., Ch. 252, Sec. 2, eff. 1/1/2012.

Amended By Acts 2011, 82nd Leg., R.S., Ch. 592, Sec. 1, eff. 9/1/2011.

Amended By Acts 2007, 80th Leg., R.S., Ch. 903, Sec. 2, eff. 6/15/2007.

Amended By Acts 2005, 79th Leg., Ch. 555, Sec. 1, eff. 9/1/2005.

Amended By Acts 2005, 79th Leg., Ch. 533, Sec. 1, eff. 6/17/2005.

Amended By Acts 2003, 78th Leg., ch. 554, Sec. 2, eff. 1/1/2004.

Amended By Acts 1993, 73rd Leg., ch. 48, Sec. 5, eff. 9/1/1993

Amended By Acts 1987, 70th Leg., ch. 540, Sec. 1, eff. 1/1/1988

Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 18, Sec. 3(b), eff. 10/2/1984

Added by Acts 1983, 68th Leg., p. 3525, ch. 576, Sec. 1, eff. 1/1/1984.

See Acts 2017, Texas Acts of the 85th Leg. - Regular Session, ch. 133, Sec. 6.
