

EHB 1384

1 THE STATE SENATE
2 Tuesday, April 3, 2001

3 ENGROSSED

4 House Bill No. 1384

5 As Amended

6 ENGROSSED HOUSE BILL NO. 1384 - By: MATLOCK of the House and HENRY
7 of the Senate.

8 [mortgages - limitations - effective date]

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 46 O.S. 1991, Section 301, is
11 amended to read as follows:

12 Section 301. A. ~~No~~ Before November 1, 2001, no suit, action or
13 proceeding to foreclose or otherwise enforce the remedies in any
14 mortgage, contract for deed or deed of trust shall be had or
15 maintained after the expiration of ten (10) years from the date the
16 last maturing obligation secured by such mortgage, contract for deed
17 or deed of trust becomes due as set out therein, and such mortgage,
18 contract for deed or deed of trust shall cease to be a lien, unless
19 the holder of such mortgage, contract for deed or deed of trust
20 either:

21 1. Before October 1, 1981, has filed or caused to be filed of
22 record a written Notice of Extension as provided in paragraph 1 of
23 subsection ~~C~~ D of this section; or

1 2. After October 1, 1981, and within the above described
2 ten-year period, files or causes to be filed of record a written
3 Notice of Extension as provided in paragraph 1 of subsection E D of
4 this section.

5 B. Beginning November 1, 2001, no suit, action or proceeding to
6 foreclose or otherwise enforce the remedies in any mortgage,
7 contract for deed or deed of trust shall be had or maintained after
8 the expiration of seven (7) years from the date the last maturing
9 obligation secured by such mortgage, contract for deed or deed of
10 trust becomes due as set out therein, and such mortgage, contract
11 for deed or deed of trust shall cease to be a lien, unless the
12 holder of such mortgage, contract for deed or deed of trust, within
13 the seven-year period, files or causes to be filed of record a
14 written Notice of Extension as provided in paragraph 1 of subsection
15 D of this section.

16 C. No suit, action or proceeding to foreclose or otherwise
17 enforce the remedies in any mortgage, contract for deed or deed of
18 trust filed of record in the office of the county clerk, in which
19 the due date of the last maturing obligation secured by such
20 mortgage, contract for deed or deed of trust cannot be ascertained
21 from the written terms thereof, shall be had or maintained after the
22 expiration of thirty (30) years from the date of recording of the
23 mortgage, contract for deed or deed of trust, and said mortgage,

1 contract for deed or deed of trust shall cease to be a lien, unless
2 the holder of such mortgage, contract for deed or deed of trust
3 either:

4 1. Before October 1, 1981, has filed or caused to be filed of
5 record a written Notice of Maturity Date as provided in paragraph 2
6 of subsection ~~C~~ D of this section; or

7 2. After October 1, 1981, and within the above described
8 thirty-year period, files or causes to be filed of record a written
9 Notice of Maturity Date as provided in paragraph 2 of subsection ~~C~~ D
10 of this section.

11 ~~C.~~ D. 1. The Notice of Extension required under subsection A
12 or B of this section, to be effective for the purpose of this ~~act~~
13 section, shall show the date of recording, the book and page and the
14 legal description of the property covered by the mortgage, contract
15 for deed or deed of trust and the time for which the payment of the
16 obligation secured thereby is extended, and shall be duly verified
17 by oath and acknowledged by the holder of the mortgage, contract for
18 deed or deed of trust.

19 2. The Notice of Maturity Date required under subsection ~~B~~ C of
20 this section, to be effective for the purpose of this ~~act~~ section,
21 shall show the date of recording, the book and page and the legal
22 description of the property covered by the mortgage, contract for
23 deed or deed of trust and the maturity date to which the last

1 maturing obligation secured thereby is extended, and shall be duly
2 verified by oath and acknowledged by the holder of the mortgage,
3 contract for deed or deed of trust.

4 ~~D.~~ E. Any mortgage, contract for deed or deed of trust barred
5 under this ~~act~~ section shall not be a defect in determining
6 marketable record title.

7 ~~E.~~ F. The notice required to be filed of record by this ~~act~~
8 section must be recorded in the office of the county clerk of the
9 county or counties where the mortgage is recorded.

10 ~~F.~~ G. Nothing contained ~~herein~~ in this section shall be
11 construed to revive the lien of any mortgage, contract for deed or
12 deed of trust which has expired by limitation before the effective
13 date of this ~~act~~ section.

14 SECTION 2. This act shall become effective November 1, 2001.

15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-27-01 - DO
16 PASS, As Amended.