

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 2662

By: Hoskin

AS INTRODUCED

An Act relating to mortgages; amending 46 O.S. 2011, Section 301, which relates to property foreclosures; requiring survey be performed prior to foreclosure; and providing an effective date.

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

SECTION 1. AMENDATORY 46 O.S. 2011, Section 301, is amended to read as follows:

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

1 1. Before October 1, 1981, has filed or caused to be filed of
2 record a written Notice of Extension as provided in paragraph 1 of
3 subsection D of this section; or

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

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

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

1 expiration of thirty (30) years from the date of recording of the
2 mortgage, contract for deed or deed of trust, and said mortgage,
3 contract for deed or deed of trust shall cease to be a lien, unless
4 the holder of such mortgage, contract for deed or deed of trust
5 either:

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

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

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

21 2. The Notice of Maturity Date required under subsection C of
22 this section, to be effective for the purpose of this section, shall
23 show the date of recording, the book and page and the legal
24 description of the property covered by the mortgage, contract for

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

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

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

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

15 H. Prior to the sale of a foreclosed property, the mortgagee or
16 selling entity shall have the property surveyed to ensure an
17 accurate property description.

18 SECTION 2. This act shall become effective November 1, 2018.
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