

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 123

By: Young

AS INTRODUCED

An Act relating to mortgages; amending 46 O.S. 2011, Section 44, which relates to notice of intent to foreclose a mortgage; modifying period of time mortgagor has to cure breach or default; including refinancing within certain time period; requiring waiver of interest accrual during certain time period; and providing an effective date.

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

SECTION 1. AMENDATORY 46 O.S. 2011, Section 44, is amended to read as follows:

Section 44. In case of breach or default as determined by the terms of the mortgage, before the same may be used as a basis to foreclose the mortgage by power of sale, the mortgagee must give the mortgagor a written notice of intention to foreclose by power of sale by certified mail addressed to the mortgagor at the last-known address of the mortgagor. The notice shall state the name and address of the mortgagee, the nature of the breach(es) or default(s) claimed with reasonable specificity, that the mortgagor has a right for ~~thirty-five (35) days~~ six (6) months from the date the notice is

1 sent to cure a breach or default and satisfactorily refinance the  
2 property and thus to that extent reinstate the mortgage, the amount  
3 of money or action necessary to effect cure, that if the breach or  
4 default is not cured the mortgagee may accelerate the debt and give  
5 the notice provided for in Section 45 of this title or otherwise  
6 foreclose the mortgage, and that the notice contains important  
7 information concerning legal rights under the mortgage and Oklahoma  
8 law and that if the mortgagor has any questions an attorney should  
9 be promptly consulted. During the six-month period, the mortgagee  
10 shall waive the accrual of interest against the debt secured by the  
11 real estate. If a nonhomestead mortgagor is in default more than  
12 three (3) times in a twenty-four-month period and has been notified  
13 as provided for above, no right to an additional notice of intent to  
14 foreclose will be required prior to acceleration under Section 45 of  
15 this title. If a homestead mortgagor is in default more than four  
16 (4) times in a twenty-four-month period and has been notified as  
17 provided for above, no right to an additional notice of intent to  
18 foreclose will be required prior to acceleration under Section 45 of  
19 this title. If a mortgagee complies with a contractual provision  
20 for notice before acceleration in a Federal National Mortgage  
21 Association or Federal Home Loan Mortgage Corporation uniform  
22 instrument taken by the mortgagee which is substantially in  
23 compliance with or more stringent than the provisions of the notice  
24 of intention to foreclose by power of sale, such action by the

1 mortgagee constitutes compliance with this section, but in any  
2 event, the requirements of this section shall run concurrently with  
3 any contractual provision for notice before acceleration in the  
4 mortgage. The notice of sale pursuant to Section 45 of this title  
5 may not be given or recorded until the provisions of this section  
6 are met.

7 SECTION 2. This act shall become effective November 1, 2019.

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