TEXAS RULES OF CIVIL PROCEDURE 735 & 736

CURRENT VERSION 1,875 - Words

2009 VERSION

Rules: 6,430 - Words
Forms: 7,017 – Words
13,447 – TOTAL

TODAY'S VERSION 2,168 - Words

RULES DON'T CHANGE THE REGULAR FORECLOSURE PROCESS UNDER APPLICABLE LAW AND THE TERMS OF THE LIEN SOUGHT TO BE FORECLOSED

NEW CHANGES

- Includes provisions relating to foreclosure of transferred or property tax loan and property owners' association liens
- Applicant is now called petitioner
- Only issue to be decided is whether petitioner may proceed with the regular nonjudicial foreclosure process
- Non-obligated mortgagor made a party
- To prevent "sewer service", clerk of court mails citation by regular mail to respondents:
    - Prepare citation $8
    - Mailing costs $10
- Property is served with citation as in an eviction proceeding
- Affidavit of material facts signed by petition or servicer required
- If borrower fails to file response – no hearing
- If bankruptcy filed, Rule 736 dismissed
- Forms may be provided on Texas Supreme Court website

RULE 736 PROCESS

- Initiate a regular foreclosure proceeding
  - Application filed after borrower fails to cure default
  - Service of citation by regular mail
  - Order – if response filed, a hearing; if no response, no hearing
- Continue with regular foreclosure process

Independent lawsuit filed by respondent before 5pm on the Monday before a scheduled foreclosure sale automatically stays the sale and, upon proof of filing, the Rule 736 proceeding is dismissed or Rule 736 order vacated