

HOA PRE-FORECLOSURE DUE DILIGENCE

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**HANDLING YOUR FIRST (OR NEXT)
HOA ASSESSMENT LIEN FORECLOSURE
FOR CONDOS AND SUBDIVISIONS**

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Austin

CHAPTER 3

Guide to Using This Course Book

This article is one chapter of a 12-chapter course book for "Handling Your First (or Next) HOA Assessment Lien Foreclosure for Condos & Subdivisions," a 6.25 hour CLE Course presented by TexasBarCLE on November 14, 2014. The course has a faculty of twelve Texas attorneys, each of whom authored one of the chapters.

Most TexasBarCLE courses include a compilation of independent articles, each standing on its own. However, this course is intended to be a practical, step-by-step guide through the foreclosure process. As such, each chapter builds on the others, and the chapters are interrelated. Also, additional resource materials that relate to multiple chapters are included at the end of the course book. Accordingly, one cannot realize the full benefit of any one chapter (article) without having the entire course book.

If you are not a subscriber to the TexasBarCLE Online Library (which gives you unlimited access to the entire library), consider purchasing the entire course book by visiting "[Publications](#)" at TexasBarCLE.com. There you will have the option of purchasing the hard copy course book (which includes a single PDF file of the book) or a single PDF file of it at a discount. Either option will cost considerably less than purchasing the 12 chapters individually from the Online Library.

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HOA Pre-Foreclosure Due Diligence

I. INTRODUCTION

The ability of a homeowners association (an “HOA”) to foreclose on an assessment lien against a delinquent homeowner is a powerful tool, the use of which should not be taken lightly. Before embarking on the foreclosure process, there are several due diligence steps which the practitioner should take in order to ensure compliance with statutory requirements and the community’s governance documents. The purpose of this paper is to explain the relevant law affecting pre-foreclosure due diligence as well as provide a practical and comprehensive “checklist” to assist with this process.¹

II. DEFINITIONS

Capitalized terms used in this article, if not otherwise defined herein, shall have the meanings attributed to such terms in the Topical Glossary for use with the State Bar of Texas course titled “Handling Your First (or Next) HOA Assessment Lien Foreclosure.” The term “HOA”, when used throughout this article, will refer to both Subdivision and Condominium HOAs, except, however, when the specific terms “**Subdivision HOA**” and “**Condominium HOA**” is used. Similarly, “**Record Owner**” shall refer to an owner of either a Lot in a Subdivision or a Unit in a Condominium, while “**Lot Owner**” and “**Unit Owner**” will be used to differentiate the requirements between the community types.

III. PRE-FORECLOSURE DUE DILIGENCE

The following sections describe certain preliminary inquiries and diligence the practitioner should conduct before initiating the foreclosure of an Assessment Lien. As explained below, several of the due diligence checks suggested in this article are not explicitly mandated by Texas law, but completing these steps will save time and help to avoid complications as the foreclosure process proceeds.

A. The Engagement

The first and perhaps most basic step for representing an HOA in the foreclosure process is the formal engagement of the practitioner on behalf of the HOA. Often the Board or Manager will contact the practitioner after making several unsuccessful attempts to collect the delinquency. The practitioner should conduct a conflicts check to ensure that the practitioner has no ethical conflicts with representation of the HOA. After conflicts have cleared, the practitioner should execute an engagement agreement with the HOA. This agreement between the practitioner and the HOA will confirm the attorney’s engagement and detail the scope of the representation throughout the foreclosure process. Often the engagement will include fixed fees associated with the tasks the practitioner will undertake to attempt to collect the delinquency and ultimately initiate foreclosure proceedings. It is important that the practitioner consult with the Board or Manager in advance to determine what steps the HOA or the Manager has taken to collect the delinquency. This will likely include a preliminary review of the collection policy adopted by the HOA and the management agreement between the HOA and the Manager. Previous collection efforts, the HOA collection policy, and the management agreement may impact the scope of the representation and the fees associated with each task.

B. Pre-Referral Collection Efforts

After the practitioner has been engaged by the HOA and both the HOA and practitioner have reached agreement on the collection tasks, the practitioner must review all correspondence between the HOA or Manager and the Record Owner associated with collection of the delinquency. Correspondence will likely include written demand letters, but may also include e-mail or other electronic reminders. The practitioner should ensure that all attachments that accompany each written or electronic communication are also received and reviewed. Attachments may include account statements, delinquency reports, or copies of collection policies. The practitioner should also inquire as to whether the Record Owner was offered a payment plan.²

¹ See Exhibit “A” attached to this article.

² See Tex. Prop. Code §209.006; 209.0064; see also Article IV, Section C.

The practitioner should exercise diligent efforts to obtain copies of all correspondence before initiating any contact with the Record Owner. A review of the correspondence may require that the practitioner modify the tasks associated with collection efforts, stop the collection process until errors or irregularities are properly addressed, or withdraw from representation. Most importantly, a comprehensive review and assembly of the file will help avoid duplicative efforts, may preserve the HOA's ability to collect the delinquency, and will allow the practitioner to efficiently respond to inquiries from the Record Owner and other stakeholders once the collection process begins.

C. Verify Corporate Status

The practitioner should verify the active corporate status of the HOA with the Texas Secretary of State.³ In the event the HOA's charter has lapsed or been revoked, the practitioner should consult with the HOA and Manager to correct these issues prior to initiating collection efforts.

D. Review Governing Documents

The practitioner should obtain and review copies of all the Governing Documents for the Subdivision or Condominium community. Typical Governing Documents include:

- Articles of Incorporation or Certificate of Formation of the HOA;
- Bylaws of the HOA and all amendments;
- Declaration of Covenants, Conditions, and Restrictions or Declaration of Condominium Regime, and all amendments;
- Recorded plat;
- Community Rules and/or Regulations;
- Collection and Payment Policy
- Fine and Enforcement Policy; and
- All resolutions or consents related to collection or enforcement.

Governing Documents will vary considerably from one community to the next. Lien provisions may be different, owner notice requirements may be

modified (and contrary to the applicable provisions in Chapter 209), and amounts permitted to be recovered by way of interest and collection costs will vary. The practitioner may confront Governing Documents with improper and ineffective lien reservation language, a collection process expressly provided for in the Governing Documents (and followed by the HOA or the Manager) that violates current law, or other irregularities that will shape and perhaps stop the foreclosure process. Obviously, now is the time to discover and confront these issues. The practitioner should also be careful to confirm that the Record Owner's account statement, through a combination of fines and interest, would not be considered usurious, and otherwise conforms to the permitted interest rate caps established in the Governing Documents.

In addition, the practitioner should obtain a copy of the agreement between the HOA and the Manager. In some cases, the management agreement will outline a collection policy that is contrary to the Governing Documents, and perhaps the law. It is incumbent on the practitioner to resolve conflicts between the Governing Documents, the law and the management contract prior to proceeding with the collection and foreclosure process.

A careful review of the Governing Documents may not only affect the collection and foreclosure process, but may suggest necessary structural changes to the Declaration, Bylaws, policies and procedures of the HOA, and even the management contract. This is the practitioner's opportunity to discover problems early in the process and to provide counsel suggesting revisions or modifications, which will ease future collection efforts.

E. Confirm Military Status

Chapter 51 contains specific protections against foreclosure of liens on real property owned by a "**Military Servicemember**" during a period of his or her "**Active Duty Military Service**" and during the nine months after this period ends. Pursuant to Section 51.015(a)(3) of the Texas Property Code, a Military Servicemember is defined to include: (A) a member of the armed forces of the United States; (B) a member of the Texas National Guard or the National Guard of another state serving on active duty under an order of the President of the United States; or (C) a member of a reserve component of the armed forces of the United

³ A search of the Texas Secretary of State's records can be performed for a nominal fee at <http://www.sos.state.tx.us/corp/sosda/>.

States who is on active duty under an order of the President of the United States. Active Duty Military Service is defined as (1) service as a member of the armed forces of the United States; and (2) with respect to a member of the Texas National Guard or the National Guard of another state or a member of a reserve component of the armed forces of the United States, active duty under an order of the President of the United States.⁴ The Chapter 51 restrictions against foreclosure apply to an obligation: (a) that is secured by a contractual lien on real property or personal property that includes a dwelling owned by a Military Servicemember, including a lien securing payment of assessments; (b) that originated before the first day of the Military Servicemember's Active Duty Military Service; and (c) for which the Military Servicemember is still obligated.

Ultimately, a sale, foreclosure, or seizure of property under a mortgage, deed of trust, or other contractual lien cannot be conducted during a Military Servicemember's period of Active Duty Military Service or during the nine months after this period ends, with limited exceptions.⁵ Significantly, the knowing pursuit of a sale, foreclosure or seizure of property against a protected Military Servicemember during the prohibited period is the basis for a Class A misdemeanor criminal offense.⁶

The practitioner must verify the military status and period of Active Duty Military Service of the Record Owner before proceeding with foreclosure of an Assessment Lien. Military status information may be available from the HOA or from the Record Owner. However, the practitioner is advised to independently conduct a records check with the Department of Defense to confirm the Record Owner's military status. A search may be conducted at www.servicememberscivilreliefact.com to verify active military status. See Exhibit B for step-by-step instructions for performing a search on the SCRACVS website to confirm military status.

⁴ Tex. Prop. Code § 51.015(a)(1).

⁵ Tex. Prop. Code §51.015(d). Exceptions to this provision include a sale, foreclosure or seizure conducted under: (1) a court order issued before the sale, foreclosure or seizure; or (2) a waiver agreement executed by the Military Servicemember that complies with the requirements of Tex. Prop. Code §51.015(e).

⁶ Tex. Prop. Code §51.015(f).

If the online search results are inconclusive, which is often the case, the practitioner should send individual written inquiries to each branch of the military (i.e. Army, Navy, Marine Corps, Air Force, Coast Guard) to verify if the Record Owner is or is not a member of the military. A sample written inquiry is attached as Exhibit C. The practitioner should note that confirmation from each branch will take time and in certain circumstances no response will be received. Accordingly, multiple sources should be consulted (e.g., Manager inquiries, online database inquiries) and the practitioner should be satisfied that the foreclosure is not subject to the constraints of Section 51.015 prior to proceeding with the foreclosure.

F. Conduct Title Review

The practitioner should obtain a title certificate or at least conduct an online title search of the property during the pre-foreclosure due diligence process. Obtaining a report from a title company will provide information about other encumbrances on the property to aid in the foreclosure evaluation, such as the existence of other liens on the property, pending foreclosures, abstracts of judgments, and tax liens, among other information. In addition, a title review will often reveal additional Governance Documents not provided to the practitioner by the HOA or Manager. These documents may have a bearing on the collection and foreclosure process.

G. Provide Notice to Lienholders

The Texas Property Code requires that a Subdivision HOA provide written notice of the Record Owner's delinquent account to inferior or subordinate lien holders before the Subdivision HOA may foreclose on its Assessment Lien.⁷ Specifically, a Subdivision HOA must provide written notice of the debt that is the cause of the foreclosure to any lien holder on the property whose lien is subordinate or inferior to the Subdivision HOA's Assessment Lien and is evidenced by a deed of trust. The Subdivision HOA must provide the recipient of such notice with the opportunity to cure the delinquency within 61 days. The notice must be sent certified mail, return receipt requested, to the lienholder's address as shown in the deed records.⁸ See Exhibit D for an example of a

⁷ Tex. Prop. Code §209.0091(a).

⁸ Tex. Prop. Code §209.0091(b).

notice of intent to foreclose letter to be sent to inferior and subordinate lien holders.

TUCA does not expressly require that a Condominium HOA provide notice to junior lienholders; however, if a Unit Owner defaults in his or her monetary obligations, the Condominium HOA often notifies other lien holders. Generally, this notice is provided to allow the lienholder the opportunity to pay the delinquency to prevent foreclosure. The notice to lienholders is not characterized as a demand for payment, but rather a notice of the delinquency and the HOA's intent to proceed with foreclosure. On the other hand, if a lienholder has requested, in writing, that the Condominium HOA notify the lienholder of the delinquency and intent to foreclose, the Condominium HOA is required to provide such notice.⁹

It should also be noted that certain Governing Documents, for Subdivisions and Condominiums, require that notice be provided to lienholders. Specifically, this occurs when the Governing Documents are prepared in accordance with Federal Housing Authority or Fannie Mae underwriting requirements. These provisions are more frequently found in Governing Documents for Condominiums.

IV. OTHER PRE-FORECLOSURE DUE DILIGENCE CONSIDERATIONS

A. Composition of Delinquency

The practitioner should determine the monetary components of the delinquency. A Subdivision HOA may not foreclose an Assessment Lien if it consists solely of fines, attorneys' fees incurred solely associated with fines, or amounts added as an assessment for copies and compilation of the Subdivision HOA's records.¹⁰ Similarly, the Texas Uniform Condominium Act ("TUCA") prohibits Condominium HOAs from foreclosing on an Assessment Lien consisting solely of fines.¹¹

⁹ Tex. Prop. Code §82.113(h).

¹⁰ Tex. Prop. Code §209.009.

¹¹ Tex. Prop. Code §82.113(e).

B. Payment Plans and Application of Payments

Though TUCA does not require that a Condominium HOA offer a payment plan to the delinquent Record Owner, most Subdivision HOAs must offer an alternative payment plan.¹² A payment plan affords the Record owner the opportunity to pay the delinquency over a set period of time. Provided a payment plan is in effect and the Record Owner is in compliance with the terms of the plan, collection and foreclosure efforts cannot proceed. The requirement to offer a payment plan only applies to Subdivisions composed of more than fourteen (14) lots. The term of payment plan may be no less than three (3) and no more than eighteen (18) months in duration. The Subdivision HOA is not required to offer a payment plan to a Record Owner who has defaulted under a prior payment plan if the default occurred within the previous two years. See Exhibit E for a sample general payment plan.

If the practitioner is referred an account subject to a payment plan, the practitioner has the opportunity to confirm that the plan complies with the statutory requirements and the payment plan policy adopted by the Subdivision HOA. On occasion, the terms of the payment plan will not adhere to the payment plan policy adopted by the Subdivision HOA, but instead be prepared in accordance with policies implemented by the Manager.

The practitioner, when reviewing the Record Owner's account, should consider whether payments received from the Record Owner have been applied properly.

Chapter 209 includes specific requirements for the application of payments received by a Subdivision HOA. Payments must be applied to the Record Owner's delinquency in the following order: (1) delinquent assessments; (2) current assessments; (3) attorney's fees or third party collection costs associated solely with assessments or any other charge that could provide the basis for foreclosure; (4) other attorney's fees; (5) fines assessed by the association; and (6) other amounts due to the association.¹³ If the Record Owner has defaulted on a payment plan, the HOA is not

¹² Tex. Prop. Code §209.0062.

¹³ Tex. Prop. Code §209.063(a).

required to apply the payments with the order of priority specified by §209.063(a), and a fine assessed by the Subdivision HOA may be given priority over any other amount owed by the Lot Owner.¹⁴

The Condominium HOA may adopt rules regarding the application of payments.¹⁵ For the Condominium HOA, the practitioner is advised to review the Governing Documents to determine the application of payments. If the Condominium HOA has not adopted a policy associated with the application of payments, the practitioner should advise the Condominium HOA to adopt and record the policy.

C. Third-Party Debt Collection

A practitioner collecting a debt on behalf the HOA is considered a third party debt collector pursuant to Chapter 392 of the Texas Finance Code, also known as the Texas Debt Collection Practices Act (“TDCPA”). Section 392.101 provides that a third-party debt collector is not permitted to engage in debt collection unless it has obtained a surety bond issued by a surety company authorized to do business in Texas. The bond must be in the amount of \$10,000, and a copy of such bond must be filed with the Texas Secretary of State.¹⁶

The practitioner should be aware that the HOA is also considered a debt collector under TDCPA.¹⁷ TDCPA prohibits a debt collector from the: (1) use of threats or coercion;¹⁸ (2) use of harassment or abuse;¹⁹ (3) use of unfair or unconscionable means;²⁰ and (4) use of fraudulent, deceptive or misleading representations.²¹

Chapter 209 prohibits a Subdivision HOA from holding a Record Owner liable for fees of a “collection agent”²² unless the Record Owner is provided specific

written notice. This notice should: (1) be sent certified mail, return receipt requested; (2) specify the delinquent amount and the total amount of payment required to make the account current; (3) describe the options the Lot Owner has to avoid the account being turned over to collections (including a payment plan option); and (4) provide at least thirty (30) days for the Lot Owner to cure the delinquency before further collection action is taken.²³

V. CONCLUSION

Careful and comprehensive due diligence by the practitioner is a necessary precondition to the collection and foreclosure process. Statutory requirements have become more stringent and complicated. A community’s Governing Documents and the collection process preceding referral to the practitioner are occasionally at odds with these requirements. Careful review of the process leading up to the referral sometimes reveals opportunities for improvements and the correction of irregular and inconsistent procedures, which will ease collection efforts in the future.

¹⁴ Tex. Prop. Code §209.063(b).

¹⁵ Tex. Prop. Code §82.103(13).

¹⁶ Tex. Fin. Code §392.101.

¹⁷ Tex. Fin. Code §392.001(3), (5), (6).

¹⁸ Tex. Fin. Code §392.301(a).

¹⁹ Tex. Fin. Code §392.302.

²⁰ Tex. Fin. Code §392.303(a).

²¹ Tex. Fin. Code §392.304(a).

²² For purposes of Tex. Prop. Code §209.0064, “collection agent” is defined by Section 803 of the federal Fair Debt

Collection Practices Act, and means “any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owned or due another.” 15 U.S.C. §1692a(6).

²³ Tex. Prop. Code §209.0064.

EXHIBIT A**PRE-FORECLOSURE DUE DILIGENCE CHECKLIST**

Scenario: *Record Owner is delinquent on assessments, and the Manager has sent a past due notice and two follow-up letters to Record Owner regarding the delinquency. Record Owner has rejected payment plan or a payment plan default has occurred. HOA has engaged practitioner to assist in collection efforts.*

First Demand Letter:

- Run conflict check to ensure no conflict associated with representation
- Obtain Engagement Agreement or confirm that existing Engagement Agreement covers the requested representation
- Obtain copies of all Governing Documents
 - Articles of Incorporation or Certificate of Formation of the HOA;
 - Bylaws of the HOA and all amendments thereto;
 - Declaration of Covenants, Conditions, and Restrictions or Declaration of Condominium Regime, and all amendments thereto;
 - Recorded plat;
 - Community Rules and/or Regulations;
 - Collection and Payment Policy
 - Fine and Enforcement Policy; and
 - All resolutions or consents related to collection or enforcement.
- Conduct online Public Records search or obtain title certificate to ensure all documents have been received
- Obtain copy of management agreement between Manager and HOA
- Collect and review all prior correspondence to/from Manager/HOA and Record Owner
- Verify corporate status of HOA with Texas Secretary of State
- Review account statement provided by Manager to determine past-due amount and status of delinquency
- Research Central Appraisal District for potential alternate mailing addresses for Record Owner
- Research Official Public Records to confirm ownership

Second Demand Letter with Lien:

- Review account statement provided by Manager
- Confirm ownership
- Obtain copy of deed to Record Owner
- Confirm legal description on deed with plat records

Notice of Intent to Foreclose:

- Review account statement
- Confirm ownership and third-party lienholders
- Obtain Record Owner date of birth using www.publicdata.com or similar website
- Search to confirm Active Duty Military Servicemember status

EXHIBIT B**INSTRUCTIONS FOR VERIFYING ACTIVE DUTY MILITARY SERVICEMEMBER STATUS**

Servicemembers Civil Relief Act (SCRA) Website Single Record Request

1. Input either Social Security Number OR Date of Birth* in the form shown as Exhibit B-1

*There are various websites that can be used in order to obtain such information.

2. Input Last Name, followed by First Name and Middle Name
3. Typically the Active Duty Status Date box will be left blank, as it will default to the current date.
4. Click Submit. A PDF will be generated that will show either conclusive (Exhibit B-2) or inconclusive results (Exhibit B-3). In the case of inconclusive results, proceed to contacting each branch of the military to confirm active duty status.

EXHIBIT B-1

SCRA - Single Record Request

[50 USC Appx. §§501 et seq. as amended] The services provided on this site are FREE



Welcome to the Official
Servicemembers Civil Relief Act (SCRA) Website




Home Single Record Request Multiple Record Requests User's Guide FAQs News My Account

Single Record Request

Use this page to request a Certificate verifying Active Duty Status for an individual on a specified date.

** Indicates a required field*

* SSN

* Repeat SSN

* Birth Date
MM/DD/YYYY (e.g., 09/16/2012)

SSN OR Birth Date Required

* Last Name

First Name

Middle Name

* Active Duty Status Date
MM/DD/YYYY (Default will be today's date e.g., 10/13/2014)

Tips & Notes

- Without a Social Security Number, DMDC cannot authoritatively assert that this is the same individual that your query refers to. Name and date of birth alone do not uniquely identify an individual.
- Check your data entry before submitting it.
- Response may take up to 15 seconds after clicking "Submit".

Resources

[Download Adobe Reader](#)

[Unexpected results?](#)

Privacy Notice SCRA 3.0

EXHIBIT B-2

CONCLUSIVE RESULTS

Department of Defense Manpower Data Center

Results of : Oct-13-2014 09:11:01 AM

SCRA 9.0



**Status Report
Pursuant to Servicemembers Civil Relief Act**

Last Name: [REDACTED]

First Name: [REDACTED]

Middle Name:

Active Duty Status As Of: Oct-13-2014

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
N/A	N/A	No	N/A
The response reflects the individual's active duty status based on the Active Duty Status Date.			

Left Active Duty Within 90 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
N/A	N/A	No	N/A
The response reflects how the individual left active duty status within 90 days preceding the Active Duty Status Date.			

The Member or Member Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
N/A	N/A	No	N/A
The response reflects whether the individual or member unit has received early notification to report for active duty.			

Upon searching the databases of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her receipt of notification of the orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

Mary M. Snavely-Dixon

Mary M. Snavely-Dixon, Director
 Department of Defense - Manpower Data Center
 4800 Mark Center Drive, Suite 04E25
 Arlington, VA 22304

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. § 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenseink.mil" URL: <http://www.defenseink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC § 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Certificate ID: FEK886656039J70

EXHIBIT B-3

INCONCLUSIVE RESULTS

Department of Defense Manpower Data Center

Results of: Oct-13-2014 08:19:18 AM

SCRA 9.0



**Status Report
Pursuant to Servicemembers Civil Relief Act**

Last Name: [REDACTED]

First Name:

Middle Name:

Active Duty Status As Of: Oct-13-2014

Active Duty Start Date	Active Duty End Date	Status	Service Agency
<small>BASED ON THE PERSONAL INFORMATION YOU PROVIDED, THERE ARE MULTIPLE RECORDS. ACCORDINGLY, DMDC CANNOT DEFINITELY IDENTIFY THE INDIVIDUAL AND IS UNABLE TO RELEASE ANY INFORMATION. WE STRONGLY RECOMMEND IN THIS CASE THAT YOU CALL THE SERVICE SCRA FOR ADDITIONAL VERIFICATION. A URL FOR THE SERVICE SCRA POINT-OF-CONTACT IS PROVIDED BELOW.</small>			

Upon searching the databases of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or their unit including notification of their orders to report for Active Duty. HOWEVER, WITHOUT A SOCIAL SECURITY NUMBER, THE DEPARTMENT OF DEFENSE MANPOWER DATA CENTER CANNOT AUTHORITATIVELY ASSERT THAT THIS IS THE SAME INDIVIDUAL THAT YOUR QUERY REFERS TO. NAME AND DATE OF BIRTH ALONE DO NOT UNIQUELY IDENTIFY AN INDIVIDUAL.

Mary M. Snavely-Dixon

Mary M. Snavely-Dixon, Director
 Department of Defense - Manpower Data Center
 4800 Mark Center Drive, Suite 04E25
 Arlington, VA 22350

EXHIBIT CSAMPLE WRITTEN INQUIRY TO CONFIRM ACTIVE DUTY MILITARY SERVICEMEMBER
STATUS WITH MILITARY BRANCH*REQUEST FOR SERVICEMEMBERS' CIVIL RELIEF ACT (SCRA) CERTIFICATE
PURSUANT TO FEDERAL AND TEXAS STATE LAW*

October 1, 2014

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Bureau of Naval Personnel Command
Navy World Wide Locator, PERS 1
5720 Integrity Drive
Millington, Tennessee 38055

IN RE: Order for Foreclosure Concerning, 123 Easy Street, Anywhere, Texas 12345, Under
Tex.R. Civ.P. 736

To Whom It May Concern:

This law firm represents ABC Homeowners Association, Inc. (the "**Association**") located in Anywhere, Texas and intends to file a lawsuit on the above referenced property. Upon information and belief, John Doe is the owner of the property at issue. We attempted to check John Doe's military status on the Department of Defense's website, but the search results were inconclusive. Pursuant to federal and Texas state law, and as directed by the Department of Defense, we are requesting a Servicemembers' Civil Relief Act (SCRA) Certificate for the following individual:

Full Name: John Doe
Date of Birth: January 1, 1975

Please process this request as soon as possible and mail us a copy of the Servicemembers' Civil Relief Act (SCRA) Certificate indicating whether John Doe is on active military duty. I have enclosed a self-addressed, stamped envelope for your convenience. If you need to discuss this request, you may contact me at the phone number or email address provided below.

Sincerely,

EXHIBIT DSAMPLE NOTICE OF INTENT TO FORECLOSURE TO LIENHOLDER

October 1, 2014

NOTICE OF INTENT TO FORECLOSECERTIFIED MAIL, RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL

ABC Bank
123 Easy Street
Anywhere, Texas 12345

RE: ABC Homeowners Association, Inc. - Notice of Intent to Foreclose
123 Easy Street, Anywhere, Texas 12345 (the "**Property**")
John Doe (the "**Owner**")

To Whom It May Concern:

This firm represents ABC Homeowners Association, Inc. (the "**Association**"). It has come to the attention of the Association that you are the beneficiary of that certain Deed of Trust dated effective September 17, 2010 and recorded under Document No. 1234567890, Official Public Records, Any County, Texas (the "**Deed of Trust**"), which encumbers the Property. The Association has requested that we inform you that the Owner is delinquent in the payment of certain amounts owed to the Association secured by an assessment lien provided in Declaration of Covenants, Conditions and Restrictions recorded under Document No. 0987654321, Official Public Records of Any County, Texas, and any and all amendments thereto (the "**Declaration**"). The Deed of Trust appears to be subordinate to the assessment lien.

Pursuant to the Declaration, the Board of Directors intends to initiate an expedited judicial foreclosure process against the assessment lien on the property for the collection of the delinquent account, which delinquent account balance totals \$3,456.78. Pursuant to Section 209.0091 of the Texas Property Code, the Association is hereby providing you with notice of the owner's delinquency and an opportunity to cure such delinquency before the sixty-first (61) day after the day that you received this notice. Please let us know as soon as possible if you intend to exercise your right to cure pursuant to Section 209.0091 of the Texas Property Code. Otherwise, the Association shall proceed with the initiation of the expedited judicial foreclosure action no earlier than the sixty-first (61) day after you receive this notice as further set forth herein.

Should you have any questions or comments regarding this matter, please contact me at (123) 456-7890.

Sincerely,

EXHIBIT E

SAMPLE PAYMENT PLAN

**PAYMENT PLAN AGREEMENT
ABC HOMEOWNERS ASSOCIATION, INC.**

October 1, 2014

Owner(s)' Name: **Doe, John**
Property Address: **123 Easy Street, Anywhere, Texas 123456**
E-mail Address: **johnndoe@mail.com** Telephone: (123) 456-7890

BALANCE DUE AS OF OCTOBER 1, 2014 - \$1,234.56

Owner agrees to make payments to the Association according to the Payment Plan Schedule: See Page 3 of this Payment Plan Agreement to review the breakdown of payments per month pursuant to the terms of this payment plan agreement.

Owner also agrees to pay ongoing assessments, late fees, interest and cost of collection to the Association as they become due, all of which may be included in the payment plan schedule posted within this payment plan agreement. By Owner's signature below, Owner accepts the payment plan detailed in this agreement.

Payments are payable to: ABC HOMEOWNERS ASSOCIATION, INC.
Payments should be delivered to: ABC Management, Inc.
456 Easy Street, Anywhere, Texas 12345

DEFAULT NOTICE: By Owner's signature below, owner understands that missing a payment, paying late, sending an insufficient funds (NSF) check, or mailing payment to any address other than the address stated above is a default of the payment plan agreement. Owner also understands that if Owner defaults, the Association may terminate the payment plan and require immediate payment in full of all amounts due. If Owner defaults on this payment plan, Owner will not be eligible for another payment plan for 2 years from the date of default.

You must return the signed payment plan within 10 days. Failure to do so may be considered a rejection of the payment plan and further collections may commence. Reasonable attorney's fees and collection costs will be added to Owner's account as the same are incurred.

Owner Signature

Owner Signature

FOR MEMBERS OF THE MILITARY

Federal and State law provide certain protections to members of the armed services or military reserves. If you are a member of the armed forces or reserves, please provide the below identifying information. This information will enable the Association to verify your active duty status, should the need arise.

Owner's full name (include middle name): _____
Branch of Service: _____
Date of birth: _____

PAYMENT PLAN AGREEMENT
ABC HOMEOWNERS ASSOCIATION, INC.
Page 2 of 3

To avoid further action by this firm, which could include filing a notice of lien on the Property and/or foreclosure of the Association's lien, you must strictly comply with the terms of this payment plan.

Please note that the assessment amount may increase in the following years and in such event, you will be advised of such increase and will be responsible for paying the additional amounts when they become due along with the amounts due under the terms of this payment plan.

This letter is not intended to advise you of your legal rights or obligations. Please let us know immediately if you have or will retain the services of legal counsel in this matter. All future correspondence and communications in this matter from you or your attorney must be directed to me at the letterhead address and telephone number.

If, according to your records or calculations, you believe the Association's records are incorrect and you either do not owe all or any part of the sums set forth above or you are not in default in the manner specified, please contact the undersigned immediately. Unless you inform me within thirty (30) days of your receipt of this letter that you disagree with the validity of your delinquency, or any portion thereof, I will assume that the indebtedness is valid. If you notify me in writing within thirty (30) days of your receipt of this letter that the indebtedness or any portion thereof is disputed, I will obtain a verification of the indebtedness and a copy of such verification will be mailed to you. **Please be advised that this is an attempt to collect a debt and that any information obtained will be used for the purpose of collecting the Assessments owed by you to the Association.**

Nothing in this letter shall be considered as a demand for payment of any sum in excess of the amounts which you lawfully owe the Association. It is the Association's intent to demand payment only of such sums, under the circumstances and in the amounts provided for in the restrictive covenants. Should you have any questions or comments regarding this matter, please contact me at (123) 456-7890.

PLEASE BE ADVISED THAT THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION YOU SUPPLY TO ME WILL BE USED FOR THAT PURPOSE.

Owner will promptly notify this firm, the property owners association and the management company of all changes in address, email, or telephone.

PAYMENT PLAN AGREEMENT
 ABC HOMEOWNERS ASSOCIATION, INC.
 Page 3 of 3

PAYMENT PLAN SCHEDULE

BALANCE DUE AS OF OCTOBER 1, 2014 - **\$1,234.56** (which includes \$150.00 payment plan fee).

Please note that Quarterly Assessments become due in January, April, July and October.

<i>Payment #</i>	1	Due Date:	10/31/2014	Amount Due:	\$200.00
<i>Payment #</i>	2	Due Date:	11/30/2014	Amount Due:	\$200.00
<i>Payment #</i>	3	Due Date:	12/31/2014	Amount Due:	\$200.00
<i>Payment #</i>	4	Due Date:	1/31/2015	Amount Due:	\$200.00
<i>Payment #</i>	5	Due Date:	2/28/2015	Amount Due:	\$200.00
<i>Payment #</i>	6	Due Date:	3/31/2015	Amount Due:	\$200.00*

Please contact this office prior to making your final payment to obtain an accurate payoff amount as late fees, interest, and collection fees may have accrued against your account during the term of this payment plan.

<u>Payments are payable to:</u>	ABC HOMEOWNERS ASSOCIATION, INC.
<u>Payments should be delivered to:</u>	ABC Management, Inc. 456 Easy Street, Anywhere, Texas 12345