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November 5, 1998

The Honorable Thomas R. Phillips  
Chief Justice, Supreme Court  
Supreme Court Bldg.  
P.O. Box 12248  
Capitol Station  
Austin, Texas 78711

Re: Proposed Rule Changes to Rules 528, 647 and 742

Dear Justice Phillips:

Enclosed are proposed rule changes to Rules 528, 647 and 742, which have been approved for submission to the Supreme Court by the Court Rules Committee.

By copy of this letter, I am forwarding copies of these proposed rules to Luke Soules, Chairman of the Supreme Court Advisory Committee.

Sincerely,

By:

  
O. C. Hamilton, Jr.

OCH/jf  
Enclosures

The Honorable Thomas R. Phillips  
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cc: Mr. Luther H. Soules, III (w/encl.)  
SOULES & WALLACE  
Fifteenth Floor, Frost Bank Tower  
100 W. Houston Street, Suite 1500  
San Antonio, Texas 78205-1457

The Honorable Nathan Hecht (w/encl.)  
Justice, Supreme Court of Texas  
Supreme Court Building  
201 West 14th Street, Room 104  
Austin, Texas 78701

Ms. Vicki Wilhelm (w/encl.)  
STATE BAR OF TEXAS COMMITTEES  
P.O. Box 12487  
Austin, Texas 78711

**STATE BAR OF TEXAS**

**COURT RULE COMMITTEE**

**REQUEST FOR NEW RULE OR CHANGE OF EXISTING RULE**

**TEXAS RULES OF CIVIL PROCEDURE**

**I. Exact Wording of Existing Rule:**

**RULE 647: NOTICE OF SALE OF REAL ESTATE**

The time and place of sale of real estate under execution, order of sale, or venditioni exponas, shall be advertised by the officer by having the notice thereof published in the English language once a week for three consecutive weeks preceding such sale, in some newspaper published in said county. The first of said publications shall appear not less than twenty days immediately preceding the day of sale. Said notice shall contain a statement of the authority by virtue of which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, and shall give the number of acres, original survey, locality in the county, and the name by which the land is most generally known, but it shall not be necessary for it to contain field notes. Publishers of newspapers shall be entitled to charge for such publication at a rate equal to but not in excess of the published word or line rate of that newspaper for such class of advertising. If there be no newspaper published in the county, or none which will publish the notice of sale for the compensation herein fixed, the officer shall then post such notice in writing in three public places in the county, one of which shall be at the courthouse door of such county, for at least twenty days successively next before the day of sale. The officer making the levy shall give the defendant, or his attorney, written notice of such sale, either in person or by mail, which notice shall substantially conform to the foregoing requirements.

**II. Proposed Rule:**

**RULE 647: NOTICE OF SALE OF REAL ESTATE**

The time and place of sale of real estate under execution, order of sale, or venditioni exponas, shall be advertised by the officer by having the notice thereof published in the English language once a week for three consecutive weeks preceding such sale, in some newspaper published in said county. The first of said publications shall appear not less than twenty days immediately preceding the day of sale. Said notice shall contain a statement of the authority by virtue of which the sale is to be made,

the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, and shall give the number of acres, original survey, locality in the county, and the name by which the land is most generally known, but it shall not be necessary for it to contain field notes. ~~Publishers of newspapers shall be entitled to charge for such publication at a rate equal to but not in excess of the published rod or line rate of that newspaper for such class of~~ The legal rate that newspapers may charge for publishing a notice under this rule is that newspaper's lowest published rate for classified advertising. If there be no newspaper published in the county, or none which will publish the notice of sale for the compensation herein fixed, the officer shall then post such notice in writing in three public places in the county, one of which shall be at the courthouse door of such county, for at least twenty days successively next before the day of sale. The officer making the levy shall give the defendant, or his attorney, written notice of such sale, either in person or by mail, which notice shall substantially conform to the foregoing requirements.

**III. Brief Statements of Reasons for Requested Changes and Advantages to be Served by Them.**

The proposed change conforms the rule with section 2051.045 of the Texas Government Code, which provides that the legal rate for publishing a notice in a newspaper is the newspaper's lowest published rate for classified advertising.