

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 18, 2003

TO: Honorable Helen Giddings, Chair, House Committee on Business & Industry

FROM: John Keel, Director, Legislative Budget Board

IN RE: HB2659 by Puente (Relating to executory contracts for conveyance.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill amends Sections 5.065, 5.066(a) and (g), 5.068, 5.069(a), 5.076(a), 5.077, and 5.079(a) of the Property Code relating to executory contracts for conveyance. Amended Section 5.065 reduces from sixty to thirty days the time for a purchaser to cure a default under an executory contract for the conveyance of real property to avoid Section 5.064 enforcement of a remedy.

Amended Subsection 5.066(a) provides that if a purchaser defaults, after paying 40 percent or more of the amount due under the executory contract, the seller may sell the purchaser's interest through a trustee designated by the seller. Amended Subsection 5.066(g) provides that if a purchaser defaults, before paying 40 percent of the amount due under the executory contract, the seller may enforce rescission, forfeiture and acceleration of the indebtedness once the seller complies with the notice provisions of Sections 5.063 and 5.064 of the Property Code.

Amended Section 5.068 allows the purchaser and seller, before signing an executory contract, to agree in writing in the language that the negotiations precede the execution of the contract; however, the seller shall provide all written documents in English and the purchaser shall retain a translator or interpreter to help him or her prepare, receive, and understand all written documents.

Amended Section 5.069(a) requires that before the purchaser signs an executory contract, a seller shall provide the purchaser with a recent survey that contains a current plat of the real property, any encumbrance, restrictive covenant, or easement that affects the property's title.

Amended Section 5.076(a) requires the seller, before the 30th day after the contract is signed, to (a) record the contract and the disclosure statement or (b) record a memorandum describing the contract which includes the same disclosure statement.

Amended Section 5.077 requires the seller to provide to the purchaser an annual accounting statement not later than February 15 for the duration of the contract, which includes the total principal and interest paid under the contract during the preceding year, the remaining principal amount owed under the contract, and other prescribed information. If the seller fails to do so, the purchaser may submit a written request for this statement; however, if the seller refuses, he or she is liable to the purchaser for a civil penalty of \$1,000 and reasonable attorney's fees incurred.

Amended Section 5.079(a) requires the seller to transfer recorded, legal title of the property covered by the executory contract, to the purchaser via a title company authorized to do business in Texas; or with an attorney licensed in Texas who has agreed in writing to hold the deed in trust for the seller until the purchaser delivers the final payment to either the title company or the attorney. On receipt of the final payment due under the contract, the title company or attorney shall deliver the title to the property covered by the executory contract to the purchaser.

The bill repeals Sections 5.074, 5.079(b), and 5.079(c) of the Property Code. The Act takes effect September 1, 2003 and applies only to an executory contract for conveyance of real property signed on

or after September 1, 2003.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JK, JRO, BL