

## **BILL ANALYSIS**

C.S.H.B. 371  
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Civil Practices  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, when there is an executory contract for the conveyance of real property, the seller is required to provide the purchaser with an annual statement in January of each year for the term of the executory contract. A seller who fails to provide an annual statement is liable for the liquidated damages for each day the seller fails to provide the annual statement.

CSHB 371 reduces the amount of liquidated damages for which a seller is liable to a \$250 liquidated damage for each annual statement that the seller fails to provide the purchaser and the lessor of \$20 a day for each day after January 31st the seller does not provide the statement or the purchase price of the property. CSHB 371 also requires contractual notice to be given and provides remedies to a purchaser who does not timely receive an annual statement required by law.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

CSHB 371 amends the heading of Section 5.077, Property Code, to read as follows: ANNUAL ACCOUNTING STATEMENT; DAMAGES; CONTRACTUAL NOTICE REQUIRED.

Further, CSHB 371 amends Section 5.077, Property Code, to provide that a seller who fails to provide an annual accounting statement as set forth in this section is liable for liquidated damages in the amount of \$250 for each annual statement the seller fails to provide to the purchaser and the lessor of \$20 a day for each day after January 31st the seller does not provide the statement or the purchase price of the property and reasonable attorney fees. In addition, a seller who does not timely comply within the law in issuing a purchaser an annual statement is barred from claiming the purchaser failed to tender any sum due to the seller before the most recent date a statement was due and after the later of the latest date any previous statement was provided to the purchaser or the date the contract was entered into. Requires that contractual notice be included in an executory contract and that an annual statement be provided on or before January 31st of the year it is due. Provides for a \$250 penalty for failure to include a contractual notice.

### **EFFECTIVE DATE**

September 1, 2005

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute requires that a contractual notice be given in the executory contract and provides that the liquidated damages be \$250 and the lessor of \$20 per day or the purchase price of the property.

The substitute also prohibits a seller who does not timely comply with the law from claiming the purchaser failed to tender any sum due the seller before the most recent date a statement was due and after the later of the latest date a previous statement was provided or the date the contract was entered into.

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