

By: Farabee, Campbell

H.B. No. 371

A BILL TO BE ENTITLED

AN ACT

1
2 relating to liquidated damages for violating certain requirements
3 relating to executory contracts for the conveyance of certain real
4 property.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Section 5.077, Property Code, is
7 amended to read as follows:

8 Sec. 5.077. ANNUAL ACCOUNTING STATEMENT; DAMAGES;
9 CONTRACTUAL NOTICE REQUIRED.

10 SECTION 2. Section 5.077, Property Code, is amended by
11 amending Subsection (c) and adding Subsections (d) and (e) to read
12 as follows:

13 (c) A seller who fails to comply with Subsection (a) is
14 liable to the purchaser for:

15 (1) liquidated damages in the amount of \$250 [~~a day~~]
16 for each annual statement [~~day after January 31 that~~] the seller
17 fails to provide to the purchaser within the time required by
18 Subsection (a) [with the statement]; and

19 (2) reasonable attorney's fees.

20 (d) After January 31 of a year in which a statement is
21 required under Subsection (a), the purchaser may request in writing
22 that the seller provide the statement required under that
23 subsection. A request for a statement or accounting with respect to
24 the executory contract or any similar request is presumed to be a

1 request for a statement required by Subsection (a). If the seller
2 does not provide the statement to the purchaser on or before the
3 14th day after the date the seller receives the request, in addition
4 to the liability imposed by Subsection (c), the seller is liable to
5 the purchaser for liquidated damages in the amount of the lesser of:

6 (1) \$250 a day for each day after the 14th day after
7 the date the seller receives the request that the seller does not
8 provide the statement; or

9 (2) the purchase price of the property.

10 (e) The executory contract must include a provision that:

11 (1) states that:

12 (A) the seller is required to provide an annual
13 statement under this section on or before January 31 of each year
14 for the term of the contract; and

15 (B) the buyer has the right to request that the
16 seller provide the statement if the buyer does not receive the
17 statement on or before January 31 of the year it is due; and

18 (2) lists the items that must be included in the
19 statement under Subsection (b).

20 SECTION 3. (a) Section 5.077(c), Property Code, as amended
21 by this Act, applies to the act of a seller who has only one contract
22 for deed outstanding and before, on, or after the effective date of
23 this Act fails to timely provide an annual statement as required by
24 Section 5.077(a), Property Code. This subsection does not apply to
25 the liability of a seller for an act for which the seller has paid
26 liquidated damages, or has been ordered by a court to pay liquidated
27 damages, under Section 5.077(c), Property Code, before the

1 effective date of this Act.

2 (b) Section 5.077(e), Property Code, as added by this Act,
3 applies only to an executory contract entered into on or after the
4 effective date of this Act. An executory contract entered into
5 before the effective date of this Act is governed by the law in
6 effect immediately before that date, and that law is continued in
7 effect for that purpose.

8 SECTION 4. This Act takes effect September 1, 2005.