

By: Raymond

H.B. No. 3065

A BILL TO BE ENTITLED

AN ACT

relating to certain arrangements in the sale of residential real property.

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

SECTION 1. Title 2, Business & Commerce Code, is amended by adding Chapter 21 to read as follows:

CHAPTER 21. PROHIBITED ARRANGEMENTS IN SALE OF RESIDENTIAL REAL PROPERTY

Sec. 21.001. DEFINITIONS. In this chapter:

(1) "Affiliate" means a company that is directly or indirectly controlled by a seller or a company that directly or indirectly controls a seller. A company directly or indirectly controls a seller, and a seller indirectly or directly controls a company if, alone or with other persons or through one or more subsidiaries, the company or seller:

(A) owns, controls, or holds the power or proxies to vote more than 10 percent of the voting stock or voting rights of the company or seller;

(B) controls in any manner the election of the board of directors or managers of a company or seller; or

(C) is a general partner or manager of the company or seller.

(2) "Company" means a corporation, general partnership, limited partnership, limited liability company, joint

1 venture, or other legal entity or association.

2 (3) "Residential real property" means property that is
3 improved with a one to four family residence or is intended to be
4 improved with a one to four family residence.

5 (4) "Seller" means a person who in any consecutive
6 12-month period acts as seller of residential real property owned
7 by the person in four or more transactions.

8 Sec. 21.002. PROHIBITED ACTS. A seller may not sell or
9 offer to make a loan, extend credit, lease or sell property, or
10 provide a service or other benefit to a buyer, including fixing or
11 varying required consideration, on the condition that the buyer
12 obtain a loan, additional credit, other property, or other service
13 from:

14 (1) the seller;

15 (2) an affiliate; or

16 (3) a specified company or person, if the requirement
17 that the buyer use a specified company or person substantially
18 reduces competition.

19 Sec. 21.003. PRIVATE CAUSE OF ACTION. (a) A buyer or
20 prospective buyer who has been injured by a violation of this
21 chapter or another person whose business has been injured by a
22 violation of this chapter may bring an action against a seller or an
23 affiliate for:

24 (1) actual damages;

25 (2) an injunction against a violation or continued
26 violation of this chapter; or

27 (3) both.

1 (b) If a trier of fact finds that the actions of the seller
2 or an affiliate were wilful or flagrant, the injured person is
3 entitled to three times the actual damages incurred as a result of a
4 violation of this chapter.

5 (c) A plaintiff who prevails in an action under this chapter
6 is entitled to court costs and reasonable attorney's fees.

7 SECTION 2. Chapter 21, Business & Commerce Code, as added by
8 this Act, applies only to a sale of or offer to sell residential
9 real property made on or after the effective date of this Act. An
10 offer or sale made before the effective date of this Act is covered
11 by the law in effect on the date the offer or sale was made, and the
12 former law is continued in effect for that purpose.

13 SECTION 3. This Act takes effect September 1, 2005.