

BILL ANALYSIS

H.B. 3553
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2005, the Legislature passed H.B. 1823 which classified lease-option real estate sales contracts as executory contracts. H.B. 1823 imposed requirements on lease-option real estate sales that effectively eliminated this purchasing option for potential home buyers from the market place. H.B. 3553 would create a new Subchapter (Subchapter G.) within Chapter 5, Property Code, which would regulate lease-option real estate sales and make this option available to consumers once again when appropriate.

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

H.B. 3553 amends the Property Code to clarify that only certain lease-option contracts are an executory contract for conveyance of real property.

H.B. 3553 adds Subchapter G (Lease-Option Contracts) to Chapter 5, Property Code. The bill provides definitions and outlines the applicability of Subchapter G and its construction with other law. The bill sets forth notice requirements for lease-option contracts. The bill sets forth the seller's remedies for default and the right to cure a default. The bill outlines procedures for sale of the property and protection of equity. The bill sets forth provisions relating to the placement of a lien for utility service. The bill sets forth requirements for when negotiations are conducted primarily in a language other than English. The bill requires the seller to provide certain disclosures relating to the property's condition, and sets forth notice requirements. The bill also provides for disclosures by the seller relating to tax payments, insurance coverage, and financing terms.

H.B. 3553 prohibits oral agreements for a lease-option contract, including modifying a written agreement orally, and requires notice of this provision be provided to the seller. The bill prohibits certain terms from being included in the contract, and provides that a provision of a lease-option contract that purports to waive a right or exempt a party from liability. The bill sets forth the purchaser's rights relating to canceling a contract under certain circumstances. The bill sets forth provisions for lease-option contracts entered into before September 1, 2007. The bill sets forth recording requirements and requires the seller to provide the purchaser with an annual accounting statement, and sets forth the requirements for the accounting statement. The bill sets forth provisions for disposition of insurance proceeds. The bill sets forth provisions for the transfer of title. The bill sets forth provisions pertaining to the purchaser's right to convert a lease-option contract into recorded, legal title. The bill entitles the purchaser under a lease option contract to receive certain information from the seller.

H.B. 3553 sets forth provisions pertaining to the remedies available to a purchaser if a seller violates various provisions of Subchapter G, and sets forth the liabilities for a violation of certain provisions of Subchapter G. The bill authorizes the purchaser, if the seller is liable to the purchaser under Subchapter G, to deduct the amount owed to the seller by the purchaser under the terms of a lease-option contract. The bill authorizes the seller to recover from the purchaser any improper reduction plus court costs and attorney's fees by taking judicial action.

The bill repeals Sections 5.062(e), (f), and (g), Property Code.

H.B. 3553 80(R)

The bill clarifies that the change in law made by this Act applies only to a lease-option contract entered into on or after the effective date of this Act.

EFFECTIVE DATE

September 1, 2007.