

AN ACT

relating to the conveyance of certain residential real property encumbered by a lien.

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

SECTION 1. Subchapter A, Chapter 5, Property Code, is amended by adding Sections 5.016 and 5.017 to read as follows:

Sec. 5.016. CONVEYANCE OF RESIDENTIAL PROPERTY ENCUMBERED BY LIEN. (a) A person may not convey an interest in or enter into a contract to convey an interest in residential real property that will be encumbered by a recorded lien at the time the interest is conveyed unless, on or before the seventh day before the earlier of the effective date of the conveyance or the execution of an executory contract binding the purchaser to purchase the property, an option contract, or other contract, the person provides the purchaser and each lienholder a separate written disclosure statement in at least 12-point type that:

(1) identifies the property and includes the name, address, and phone number of each lienholder;

(2) states the amount of the debt that is secured by each lien;

(3) specifies the terms of any contract or law under which the debt that is secured by the lien was incurred, including, as applicable:

(A) the rate of interest;

1 (B) the periodic installments required to be
2 paid; and

3 (C) the account number;

4 (4) indicates whether the lienholder has consented to
5 the transfer of the property to the purchaser;

6 (5) specifies the details of any insurance policy
7 relating to the property, including:

8 (A) the name of the insurer and insured;

9 (B) the amount for which the property is insured;
10 and

11 (C) the property that is insured;

12 (6) states the amount of any property taxes that are
13 due on the property; and

14 (7) includes a statement at the top of the disclosure
15 in a form substantially similar to the following:

16 WARNING: ONE OR MORE RECORDED LIENS HAVE BEEN FILED THAT MAKE A
17 CLAIM AGAINST THIS PROPERTY AS LISTED BELOW. IF A LIEN IS NOT
18 RELEASED AND THE PROPERTY IS CONVEYED WITHOUT THE CONSENT OF THE
19 LIENHOLDER, IT IS POSSIBLE THE LIENHOLDER COULD DEMAND FULL PAYMENT
20 OF THE OUTSTANDING BALANCE OF THE LIEN IMMEDIATELY. YOU MAY WISH TO
21 CONTACT EACH LIENHOLDER FOR FURTHER INFORMATION AND DISCUSS THIS
22 MATTER WITH AN ATTORNEY.

23 (b) A violation of this section does not invalidate a
24 conveyance. Except as provided by Subsections (c) and (d), if a
25 contract is entered into without the seller providing the notice
26 required by this section, the purchaser may terminate the contract
27 for any reason on or before the seventh day after the date the

1 purchaser receives the notice in addition to other remedies
2 provided by this section or other law.

3 (c) This section does not apply to a transfer:

4 (1) under a court order or foreclosure sale;

5 (2) by a trustee in bankruptcy;

6 (3) to a mortgagee by a mortgagor or successor in
7 interest or to a beneficiary of a deed of trust by a trustor or
8 successor in interest;

9 (4) by a mortgagee or a beneficiary under a deed of
10 trust who has acquired the real property at a sale conducted under a
11 power of sale under a deed of trust or a sale under a court-ordered
12 foreclosure or has acquired the real property by a deed in lieu of
13 foreclosure;

14 (5) by a fiduciary in the course of the administration
15 of a decedent's estate, guardianship, conservatorship, or trust;

16 (6) from one co-owner to one or more other co-owners;

17 (7) to a spouse or to a person or persons in the lineal
18 line of consanguinity of one or more of the transferors;

19 (8) between spouses resulting from a decree of
20 dissolution of marriage or a decree of legal separation or from a
21 property settlement agreement incidental to one of those decrees;

22 (9) to or from a governmental entity;

23 (10) where the purchaser obtains a title insurance
24 policy insuring the transfer of title to the real property; or

25 (11) to a person who has purchased, conveyed, or
26 entered into contracts to purchase or convey an interest in real
27 property four or more times in the preceding 12 months.

1 (d) A violation of this section is not actionable if the
2 person required to give notice reasonably believes and takes any
3 necessary action to ensure that each lien for which notice was not
4 provided will be released on or before the 30th day after the date
5 on which title to the property is transferred.

6 Sec. 5.017. FEE FOR FUTURE CONVEYANCE OF RESIDENTIAL REAL
7 PROPERTY AND RELATED LIEN PROHIBITED. (a) In this section,
8 "property owners' association" has the meaning assigned by Section
9 209.002.

10 (b) A deed restriction or other covenant running with the
11 land applicable to the conveyance of residential real property that
12 requires a transferee of residential real property or the
13 transferee's heirs, successors, or assigns to pay a declarant or
14 other person imposing the deed restriction or covenant on the
15 property or a third party designated by a transferor of the property
16 a fee in connection with a future transfer of the property is
17 prohibited. A deed restriction or other covenant running with the
18 land that violates this section or a lien purporting to encumber the
19 land to secure a right under a deed restriction or other covenant
20 running with the land that violates this section is void and
21 unenforceable. For purposes of this section, a conveyance of real
22 property includes a conveyance or other transfer of an interest or
23 estate in residential real property.

24 (c) This section does not apply to a deed restriction or
25 other covenant running with the land that requires a fee associated
26 with the conveyance of property in a subdivision that is payable to:

27 (1) a property owners' association that manages or

1 regulates the subdivision or the association's managing agent if
2 the subdivision contains more than one platted lot;

3 (2) an entity organized under Section 501(c)(3),
4 Internal Revenue Code of 1986; or

5 (3) a governmental entity.

6 SECTION 2. The change in law made by this Act applies only
7 to a transfer of property that occurs or a contract entered into on
8 or after the effective date of this Act. A transfer of property
9 that occurs or a contract entered into before the effective date of
10 this Act is governed by the law in effect immediately before the
11 effective date of this Act, and that law is continued in effect for
12 that purpose.

13 SECTION 3. This Act takes effect January 1, 2008.

President of the Senate

Speaker of the House

I certify that H.B. No. 2207 was passed by the House on May 11, 2007, by the following vote: Yeas 135, Nays 2, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2207 on May 25, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2207 on May 27, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 2207

I certify that H.B. No. 2207 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2207 on May 26, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor