

1-1 By: Gallego, et al. (Senate Sponsor - Watson) H.B. No. 2207
1-2 (In the Senate - Received from the House May 14, 2007;
1-3 May 15, 2007, read first time and referred to Committee on
1-4 Jurisprudence; May 19, 2007, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; May 19, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the conveyance of certain residential real property
1-9 encumbered by a lien.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter A, Chapter 5, Property Code, is
1-12 amended by adding Section 5.016 to read as follows:

1-13 Sec. 5.016. CONVEYANCE OF RESIDENTIAL PROPERTY ENCUMBERED
1-14 BY LIEN. (a) A person may not convey an interest in or enter into a
1-15 contract to convey an interest in residential real property that
1-16 will be encumbered by a recorded lien at the time the interest is
1-17 conveyed unless, on or before the seventh day before the earlier of
1-18 the effective date of the conveyance or the execution of an
1-19 executory contract binding the purchaser to purchase the property,
1-20 an option contract, or other contract, the person provides the
1-21 purchaser and each lienholder a separate written disclosure
1-22 statement in at least 12-point type that:

1-23 (1) identifies the property and includes the name,
1-24 address, and phone number of each lienholder;

1-25 (2) states the amount of the debt that is secured by
1-26 each lien;

1-27 (3) specifies the terms of any contract or law under
1-28 which the debt that is secured by the lien was incurred, including,
1-29 as applicable:

1-30 (A) the rate of interest;

1-31 (B) the periodic installments required to be
1-32 paid; and

1-33 (C) the account number;

1-34 (4) indicates whether the lienholder has consented to
1-35 the transfer of the property to the purchaser;

1-36 (5) specifies the details of any insurance policy
1-37 relating to the property, including:

1-38 (A) the name of the insurer and insured;

1-39 (B) the amount for which the property is insured;

1-40 and

1-41 (C) the property that is insured;

1-42 (6) states the amount of any property taxes that are
1-43 due on the property; and

1-44 (7) includes a statement at the top of the disclosure
1-45 in a form substantially similar to the following:

1-46 WARNING: ONE OR MORE RECORDED LIENS HAVE BEEN FILED THAT MAKE A
1-47 CLAIM AGAINST THIS PROPERTY AS LISTED BELOW. IF A LIEN IS NOT
1-48 RELEASED AND THE PROPERTY IS CONVEYED WITHOUT THE CONSENT OF THE
1-49 LIENHOLDER, IT IS POSSIBLE THE LIENHOLDER COULD DEMAND FULL PAYMENT
1-50 OF THE OUTSTANDING BALANCE OF THE LIEN IMMEDIATELY. YOU MAY WISH TO
1-51 CONTACT EACH LIENHOLDER FOR FURTHER INFORMATION AND DISCUSS THIS
1-52 MATTER WITH AN ATTORNEY.

1-53 (b) A violation of this section does not invalidate a
1-54 conveyance. Except as provided by Subsections (c) and (d), if a
1-55 contract is entered into without the seller providing the notice
1-56 required by this section, the purchaser may terminate the contract
1-57 for any reason on or before the seventh day after the date the
1-58 purchaser receives the notice in addition to other remedies
1-59 provided by this section or other law.

1-60 (c) This section does not apply to a transfer:

1-61 (1) under a court order or foreclosure sale;

1-62 (2) by a trustee in bankruptcy;

1-63 (3) to a mortgagee by a mortgagor or successor in
1-64 interest or to a beneficiary of a deed of trust by a trustor or

2-1 successor in interest;
2-2 (4) by a mortgagee or a beneficiary under a deed of
2-3 trust who has acquired the real property at a sale conducted under a
2-4 power of sale under a deed of trust or a sale under a court-ordered
2-5 foreclosure or has acquired the real property by a deed in lieu of
2-6 foreclosure;

2-7 (5) by a fiduciary in the course of the administration
2-8 of a decedent's estate, guardianship, conservatorship, or trust;

2-9 (6) from one co-owner to one or more other co-owners;

2-10 (7) to a spouse or to a person or persons in the lineal
2-11 line of consanguinity of one or more of the transferors;

2-12 (8) between spouses resulting from a decree of
2-13 dissolution of marriage or a decree of legal separation or from a
2-14 property settlement agreement incidental to one of those decrees;

2-15 (9) to or from a governmental entity;

2-16 (10) where the purchaser obtains a title insurance
2-17 policy insuring the transfer of title to the real property; or

2-18 (11) to a person who has purchased, conveyed, or
2-19 entered into contracts to purchase or convey an interest in real
2-20 property four or more times in the preceding 12 months.

2-21 (d) A violation of this section is not actionable if the
2-22 person required to give notice reasonably believes and takes any
2-23 necessary action to ensure that each lien for which notice was not
2-24 provided will be released on or before the 30th day after the date
2-25 on which title to the property is transferred.

2-26 SECTION 2. The change in law made by this Act applies only
2-27 to a transfer of property that occurs or a contract entered into on
2-28 or after the effective date of this Act. A transfer of property
2-29 that occurs or a contract entered into before the effective date of
2-30 this Act is governed by the law in effect immediately before the
2-31 effective date of this Act, and that law is continued in effect for
2-32 that purpose.

2-33 SECTION 3. This Act takes effect January 1, 2008.

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