

By: Lucio

S.B. No. 1484

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the provision of accounting statements by a seller who
3 finances the sale of residential real property owned by the seller;
4 providing a civil penalty.

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

6 SECTION 1. Subchapter A, Chapter 5, Property Code, is
7 amended by adding Section 5.019 to read as follows:

8 Sec. 5.019. ANNUAL ACCOUNTING STATEMENTS REQUIRED FOR
9 SELLER-FINANCED SALES OF RESIDENTIAL REAL PROPERTY. (a) This
10 section applies only to a seller of residential real property who
11 finances the sale of residential real property owned by the seller
12 by delivering title to the property to the purchaser in exchange for
13 an agreement by the purchaser to pay the purchase price to the
14 seller by periodic installments.

15 (b) A seller who enters into a transaction described by
16 Subsection (a) shall provide the purchaser with an annual
17 accounting statement in January of each year until the property is
18 fully paid for by the purchaser. If the seller mails the statement
19 to the purchaser, the statement must be postmarked not later than
20 January 31.

21 (c) The statement required by Subsection (b) must include
22 the following information:

23 (1) the total amount paid by the purchaser toward the
24 price of the residential real property;

- 1 (2) the remaining amount owed to the seller;
2 (3) the number of payments remaining; and
3 (4) the amounts paid to taxing authorities on the
4 purchaser's behalf if collected by the seller.

5 (d) A seller must provide, at no cost to the purchaser, a
6 written statement of the amount of the purchase price still owed by
7 the purchaser not later than the 10th day after the date the
8 purchaser makes a written request for the statement if that request
9 is the only request the purchaser has made for a statement of the
10 amount of the purchase price still owed by the purchaser in the
11 month in which the request is made.

12 (e) Except as provided by Subsection (f), a seller who fails
13 to comply with Subsection (b) is liable to the purchaser for:

- 14 (1) actual damages;
15 (2) additional damages in the amount of \$500 for each
16 annual statement the seller fails to provide to the purchaser
17 within the time required by Subsection (b); and
18 (3) reasonable attorney's fees.

19 (f) A seller who does not conduct two or more transfers in a
20 12-month period that are subject to this section and who fails to
21 comply with Subsection (b) is liable to the purchaser for:

- 22 (1) a civil penalty in the amount of \$100 for each
23 annual statement the seller fails to provide to the purchaser
24 within the time required by Subsection (b); and
25 (2) reasonable attorney's fees.

26 (g) A seller who fails to comply with Subsection (d) is
27 liable to the purchaser for:

1 (1) actual damages;

2 (2) additional damages in the amount of \$100 for each
3 statement the seller fails to provide to the purchaser within the
4 time required by Subsection (d); and

5 (3) reasonable attorney's fees.

6 (h) A purchaser may deduct an amount owed to the purchaser
7 by the seller under Subsection (e), (f), or (g).

8 (i) A seller who fails to comply with Subsection (b) after
9 receiving a written notice from the purchaser of the seller's
10 violation may not controvert a sworn statement from the purchaser
11 regarding a fact required to be reflected in the statement.

12 (j) An agreement that purports to waive a right or exempt a
13 party from a liability or duty under this section is void and
14 unenforceable.

15 (k) This section does not apply to a transfer:

16 (1) pursuant to a court order or foreclosure sale;

17 (2) by a trustee in bankruptcy;

18 (3) to a mortgagee by a mortgagor or successor in
19 interest or to a beneficiary of a deed of trust by a trustor or
20 successor in interest;

21 (4) by a mortgagee or a beneficiary under a deed of
22 trust who has acquired the real property at a sale conducted
23 pursuant to a power of sale under a deed of trust or a sale pursuant
24 to a court-ordered foreclosure or has acquired the real property by
25 a deed in lieu of foreclosure;

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

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

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

4 (8) between spouses resulting from a decree of
5 dissolution of marriage or a decree of legal separation or from a
6 property settlement agreement incidental to such a decree; or

7 (9) to or from any governmental entity.

8 SECTION 2. The change in law made by this Act applies to a
9 financing agreement entered into before, on, or after the effective
10 date of this Act.

11 SECTION 3. This Act takes effect September 1, 2007.