

By: Lucio

S.B. No. 1484

Substitute the following for S.B. No. 1484:

By: Solomons

C.S.S.B. No. 1484

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the provision of amortization schedules and accounting
3 statements by a seller who finances the sale of residential real
4 property owned by the seller; 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. SCHEDULE OF PAYMENTS AND ANNUAL ACCOUNTING
9 STATEMENTS REQUIRED FOR SELLER-FINANCED SALES OF RESIDENTIAL REAL
10 PROPERTY. (a) This section applies only to a seller of residential
11 real property who finances the sale of residential real property
12 owned by the seller by delivering title to the property to the
13 purchaser in exchange for an agreement by the purchaser to pay the
14 purchase price to the seller by periodic installments.

15 (b) A seller who enters into a transaction described by
16 Subsection (a) shall:

17 (1) not later than the 10th day after the date the
18 seller delivers title, provide the purchaser, at no cost to the
19 purchaser, with an amortization schedule that shows, through the
20 date on which the purchase price is expected to be fully paid:

21 (A) the date on which each periodic installment
22 is due;

23 (B) the initial principal amount to be repaid;

24 (C) the amount of each periodic installment

1 allocated to interest;

2 (D) the amount of each periodic installment
3 allocated to the reduction of the principal amount; and

4 (E) the balance of the principal amount after
5 each installment;

6 (2) not later than the 30th day after the date the
7 seller receives a written request from the purchaser, provide the
8 purchaser, at no cost to the purchaser, with an additional copy of
9 the current amortization schedule, except that the seller is not
10 required to provide more than one copy of the amortization schedule
11 to the purchaser in any 12-month period; and

12 (3) not later than the 30th day after the date the
13 seller receives a written request from the purchaser, provide the
14 purchaser, at no cost to the purchaser, with an annual accounting
15 statement until the property is fully paid for by the purchaser.

16 (c) The annual accounting statement required by Subsection
17 (b)(3) must be an accounting for the calendar year preceding the
18 date on which the seller receives the purchaser's request and must
19 include the following information:

20 (1) the total amount paid by the purchaser that
21 specifically shows:

22 (A) the amount paid by the purchaser that was
23 allocated to interest;

24 (B) the reduction of the principal amount; and

25 (C) any other charges paid by the purchaser;

26 (2) the remaining principal amount owed to the seller;

27 (3) any amount added to the principal;

1 (4) the number of payments remaining;

2 (5) the amounts paid to taxing authorities on the
3 purchaser's behalf if collected by the seller; and

4 (6) the amounts paid to insurers on the purchaser's
5 behalf if collected by the seller.

6 (d) If a seller fails to comply with this section:

7 (1) the purchaser may seek injunctive relief to compel
8 the seller to comply with this section; and

9 (2) the seller is liable to the purchaser for:

10 (A) a civil penalty in the amount of \$100 for each
11 annual statement and each amortization schedule the seller fails to
12 provide to the purchaser within the time required by Subsection
13 (b); and

14 (B) reasonable attorney's fees.

15 (e) A court may allow the purchaser to deduct an amount owed
16 to the purchaser by the seller under Subsection (d).

17 (f) An agreement that purports to waive a right or exempt a
18 party from a liability or duty under this section is void and
19 unenforceable.

20 (g) This section does not apply to a transfer:

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

22 (2) by a trustee in bankruptcy;

23 (3) to a mortgagee by a mortgagor or successor in
24 interest or to a beneficiary of a deed of trust by a trustor or
25 successor in interest;

26 (4) by a mortgagee or a beneficiary under a deed of
27 trust who has acquired the real property at a sale conducted

1 pursuant to a power of sale under a deed of trust or a sale pursuant
2 to a court-ordered foreclosure or has acquired the real property by
3 a deed in lieu of foreclosure;

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

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

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

9 (8) between spouses resulting from a decree of
10 dissolution of marriage or a decree of legal separation or from a
11 property settlement agreement incidental to such a decree;

12 (9) by a seller who does not conduct two or more
13 transfers that are subject to this section in a 12-month period; or

14 (10) to or from any governmental entity.

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

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