

1-1 By: Lucio S.B. No. 1484
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 May 4, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 4, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1484 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the provision of accounting statements by a seller who
1-11 finances the sale of residential real property owned by the seller;
1-12 providing a civil penalty.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter A, Chapter 5, Property Code, is
1-15 amended by adding Section 5.019 to read as follows:

1-16 Sec. 5.019. ANNUAL ACCOUNTING STATEMENTS REQUIRED FOR
1-17 SELLER-FINANCED SALES OF RESIDENTIAL REAL PROPERTY. (a) This
1-18 section applies only to a seller of residential real property who
1-19 finances the sale of residential real property owned by the seller
1-20 by delivering title to the property to the purchaser in exchange for
1-21 an agreement by the purchaser to pay the purchase price to the
1-22 seller by periodic installments.

1-23 (b) A seller who enters into a transaction described by
1-24 Subsection (a) shall provide the purchaser with an annual
1-25 accounting statement in January of each year until the property is
1-26 fully paid for by the purchaser. If the seller mails the statement
1-27 to the purchaser, the statement must be postmarked not later than
1-28 January 31.

1-29 (c) The statement required by Subsection (b) must include
1-30 the following information:

1-31 (1) the total amount paid by the purchaser towards the
1-32 price of the residential real property;

1-33 (2) the remaining amount owed to the seller;

1-34 (3) the number of payments remaining; and

1-35 (4) the amounts paid to taxing authorities on the
1-36 purchaser's behalf if collected by the seller.

1-37 (d) A seller must provide, at no cost to the purchaser, a
1-38 written statement of the amount of the purchase price still owed by
1-39 the purchaser not later than the 10th day after the date the
1-40 purchaser makes a written request for the statement if that request
1-41 is the only request the purchaser has made for a statement of the
1-42 amount of the purchase price still owed by the purchaser in the
1-43 month in which the request is made.

1-44 (e) Except as provided by Subsection (f), a seller who fails
1-45 to comply with Subsection (b) is liable to the purchaser for:

1-46 (1) actual damages;

1-47 (2) additional damages in the amount of \$500 for each
1-48 annual statement the seller fails to provide to the purchaser
1-49 within the time required by Subsection (b); and

1-50 (3) reasonable attorney's fees.

1-51 (f) A seller who does not conduct two or more transfers in a
1-52 12-month period that are subject to this section and who fails to
1-53 comply with Subsection (b) is liable to the purchaser for:

1-54 (1) a civil penalty in the amount of \$100 for each
1-55 annual statement the seller fails to provide to the purchaser
1-56 within the time required by Subsection (b); and

1-57 (2) reasonable attorney's fees.

1-58 (g) A seller who fails to comply with Subsection (d) is
1-59 liable to the purchaser for:

1-60 (1) actual damages;

1-61 (2) additional damages in the amount of \$100 for each
1-62 statement the seller fails to provide to the purchaser within the
1-63 time required by Subsection (d); and

2-1 (3) reasonable attorney's fees.

2-2 (h) A purchaser may deduct an amount owed to the purchaser
2-3 by the seller under Subsection (e), (f), or (g).

2-4 (i) A seller who fails to comply with Subsection (b) after
2-5 receiving a written notice from the purchaser of the seller's
2-6 violation may not controvert a sworn statement from the purchaser
2-7 regarding a fact required to be reflected in the statement.

2-8 (j) An agreement that purports to waive a right or exempt a
2-9 party from a liability or duty under this section is void and
2-10 unenforceable.

2-11 (k) This section does not apply to a transfer:

2-12 (1) pursuant to a court order or foreclosure sale;

2-13 (2) by a trustee in bankruptcy;

2-14 (3) to a mortgagee by a mortgagor or successor in
2-15 interest or to a beneficiary of a deed of trust by a trustor or
2-16 successor in interest;

2-17 (4) by a mortgagee or a beneficiary under a deed of
2-18 trust who has acquired the real property at a sale conducted
2-19 pursuant to a power of sale under a deed of trust or a sale pursuant
2-20 to a court-ordered foreclosure or has acquired the real property by
2-21 a deed in lieu of foreclosure;

2-22 (5) by a fiduciary in the course of the administration
2-23 of a decedent's estate, guardianship, conservatorship, or trust;

2-24 (6) from one co-owner to one or more other co-owners;

2-25 (7) made to a spouse or to a person or persons in the
2-26 lineal line of consanguinity of one or more of the transferors;

2-27 (8) between spouses resulting from a decree of
2-28 dissolution of marriage or a decree of legal separation or from a
2-29 property settlement agreement incidental to such a decree; or

2-30 (9) to or from any governmental entity.

2-31 SECTION 2. The change in law made by this Act applies to a
2-32 financing agreement entered into before, on, or after the effective
2-33 date of this Act.

2-34 SECTION 3. This Act takes effect September 1, 2007.

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