

Amend CSHB 2295 (house committee report) as follows:

(1) On page 6, line 21, strike "Section 401.003(d), Property Code, is amended" and substitute "Section 401.003, Property Code, is amended by amending Subsections (c) and (d) and adding Subsection (e)".

(2) On page 6, between lines 22 and 23, insert the following:

(c) The term does not include a ~~[any]~~ person who:

(1) has been issued a license by this state or an agency of this state to practice a trade or profession related to or affiliated with residential construction if the work being done by the entity or individual to the home is solely for the purpose for which the license was issued; ~~[or]~~

(2) sells a new home and:

(A) does not construct or supervise or manage the construction of the home; and

(B) holds a license issued under Chapter 1101, Occupations Code, or is exempt from that chapter under Section 1101.005, Occupations Code;i

(3) guarantees or co-makes a construction loan and is not otherwise a builder under Subsection (a); or

(4) constructs or makes improvements to not more than one home in a 12-month period.

(3) On page 7, between lines 10 and 11, insert the following:

(e) The term does not include a federally insured financial institution or a subsidiary or affiliate of the institution.

(4) On page 35, line 6, strike "Subsection (e)" and substitute "Subsections (e) and (f)".

(5) On page 36, between lines 10 and 11, insert the following:

(f) Notwithstanding Subsections (a) and (b), a builder is not required to comply with this subtitle after completing construction of a partially completed home owned by a mortgagee or a beneficiary under a deed of trust who acquired the partially completed home:

(1) at a sale conducted under a power of sale under a

deed of trust or a court-ordered foreclosure; or

(2) by a deed in lieu of foreclosure.

(6) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 59.011(a), Finance Code, is amended to read as follows:

(a) For purposes of Chapter 27, Property Code, and Title 16, Property Code, a federally insured financial institution, or a subsidiary or affiliate of the institution, regulated under this code is not a builder.

SECTION _____. Sections 5.016(a) and (c), Property Code, as added by Chapter 843 (HB 1038), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(a) A seller of residential real property that is exempt from Title 16 under Section 401.003(c)(3) or (e) or Section 401.005 shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF NONAPPLICABILITY OF CERTAIN WARRANTIES

AND BUILDING AND PERFORMANCE STANDARDS

The property that is subject to this contract is exempt from Title 16, Property Code, including the provisions of that title that provide statutory warranties and building and performance standards.

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

(1) under a court order or foreclosure sale;

(2) by a trustee in bankruptcy;

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

(4) by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure unless the property acquired was a partially completed home that was subsequently completed;

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

(6) from one co-owner to another co-owner of an undivided interest in the real property;

(7) to a spouse or a person in the lineal line of consanguinity of the seller;

(8) to or from a governmental entity; or

(9) of only a mineral interest, leasehold interest, or security interest.