

By: Gonzales of Hidalgo

H.B. No. 3116

A BILL TO BE ENTITLED

AN ACT

relating to the execution of deeds conveying residential real estate in connection with certain transactions involving residential real estate.

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

SECTION 1. Title 2, Business & Commerce Code, is amended by adding Chapter 21 to read as follows:

CHAPTER 21. EXECUTION OF DEEDS IN CERTAIN TRANSACTIONS INVOLVING
RESIDENTIAL REAL ESTATE

Sec. 21.001. DEFINITION. In this chapter, "residential real estate" means real property on which a dwelling designed for occupancy for one to four families is constructed or intended to be constructed.

Sec. 21.002. PROHIBITION OF EXECUTION OF DEEDS CONVEYING RESIDENTIAL REAL ESTATE IN CERTAIN TRANSACTIONS. (a) A seller of residential real estate or a person who makes an extension of credit and takes a security interest or mortgage against residential real estate may not, before or at the time of the conveyance of the residential real estate to the purchaser or the extension of credit to the borrower, request or require the purchaser or borrower to execute and deliver to the seller or person making the extension of credit a deed conveying the residential real estate to the seller or person making the extension of credit.

(b) A deed executed in violation of this section is voidable

1 unless a subsequent purchaser of the residential real estate, for
2 valuable consideration, obtains an interest in the property after
3 the deed was recorded without notice of the violation, including
4 notice provided by actual possession of the property by the grantor
5 of the deed. The residential real estate continues to be subject to
6 the security interest of a creditor who, without notice of the
7 violation, granted an extension of credit to a borrower based on the
8 deed executed in violation of this section.

9 (c) A purchaser or borrower must bring an action to void a
10 deed executed in violation of this section not later than the second
11 anniversary of the date the deed was recorded.

12 Sec. 21.003. CIVIL ACTION FOR DAMAGES. A person who
13 violates Section 21.002 is liable to the purchaser or borrower for:

- 14 (1) actual damages;
15 (2) exemplary damages in an amount equal to or greater
16 than \$5,000 and not more than three times the amount of actual
17 damages;
18 (3) court costs; and
19 (4) reasonable attorney's fees.

20 SECTION 2. Section 24.004, Property Code, is amended to
21 read as follows:

22 Sec. 24.004. JURISDICTION; DISMISSAL. (a) Except as
23 provided by Subsection (b), a [A] justice court in the precinct in
24 which the real property is located has jurisdiction in eviction
25 suits. Eviction suits include forcible entry and detainer and
26 forcible detainer suits.

27 (b) A justice court does not have jurisdiction in a forcible

1 entry and detainer or forcible detainer suit and shall dismiss the
2 suit if the defendant files a sworn statement alleging the suit is
3 based on a deed executed in violation of Chapter 21, Business &
4 Commerce Code.

5 SECTION 3. This Act takes effect September 1, 2011.