

1-1 By: Gonzales of Hidalgo (Senate Sponsor - Lucio) H.B. No. 3116
1-2 (In the Senate - Received from the House May 6, 2011;
1-3 May 9, 2011, read first time and referred to Committee on Business
1-4 and Commerce; May 20, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 20, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3116 By: Lucio

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

1-10 relating to the execution of deeds conveying residential real
1-11 estate in connection with certain transactions involving
1-12 residential real estate.

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

1-14 SECTION 1. Title 2, Business & Commerce Code, is amended by
1-15 adding Chapter 21 to read as follows:

1-16 CHAPTER 21. EXECUTION OF DEEDS IN CERTAIN TRANSACTIONS INVOLVING
1-17 RESIDENTIAL REAL ESTATE

1-18 Sec. 21.001. DEFINITION. In this chapter, "residential
1-19 real estate" means real property on which a dwelling designed for
1-20 occupancy for one to four families is constructed or intended to be
1-21 constructed.

1-22 Sec. 21.002. PROHIBITION OF EXECUTION OF DEEDS CONVEYING
1-23 RESIDENTIAL REAL ESTATE IN CERTAIN TRANSACTIONS. (a) A seller of
1-24 residential real estate or a person who makes an extension of credit
1-25 and takes a security interest or mortgage against residential real
1-26 estate may not, before or at the time of the conveyance of the
1-27 residential real estate to the purchaser or the extension of credit
1-28 to the borrower, request or require the purchaser or borrower to
1-29 execute and deliver to the seller or person making the extension of
1-30 credit a deed conveying the residential real estate to the seller or
1-31 person making the extension of credit.

1-32 (b) A deed executed in violation of this section is voidable
1-33 unless a subsequent purchaser of the residential real estate, for
1-34 valuable consideration, obtains an interest in the property after
1-35 the deed was recorded without notice of the violation, including
1-36 notice provided by actual possession of the property by the grantor
1-37 of the deed. The residential real estate continues to be subject to
1-38 the security interest of a creditor who, without notice of the
1-39 violation, granted an extension of credit to a borrower based on the
1-40 deed executed in violation of this section.

1-41 (c) A purchaser or borrower must bring an action to void a
1-42 deed executed in violation of this section not later than the fourth
1-43 anniversary of the date the deed was recorded.

1-44 Sec. 21.003. CIVIL ACTION FOR DAMAGES. A person who
1-45 violates Section 21.002 is liable to the purchaser or borrower for:

1-46 (1) actual damages;
1-47 (2) exemplary damages in an amount equal to or greater
1-48 than \$5,000 and not more than three times the amount of actual
1-49 damages;

1-50 (3) court costs; and
1-51 (4) reasonable attorney's fees.

1-52 SECTION 2. Section 24.004, Property Code, is amended to
1-53 read as follows:

1-54 Sec. 24.004. JURISDICTION; DISMISSAL. (a) Except as
1-55 provided by Subsection (b), a [A] justice court in the precinct in
1-56 which the real property is located has jurisdiction in eviction
1-57 suits. Eviction suits include forcible entry and detainer and
1-58 forcible detainer suits.

1-59 (b) A justice court does not have jurisdiction in a forcible
1-60 entry and detainer or forcible detainer suit and shall dismiss the
1-61 suit if the defendant files a sworn statement alleging the suit is
1-62 based on a deed executed in violation of Chapter 21, Business &
1-63 Commerce Code.

2-1 SECTION 3. This Act takes effect September 1, 2011.

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