

Suspending limitations on conference committee  
jurisdiction, S.B. No. 1320 (Lucio/Gonzales of Hidalgo)

By: Gonzales of Hidalgo

H.R. No. 2703

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of  
2 Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13,  
3 Section 9(a), be suspended in part as provided by House Rule 13,  
4 Section 9(f), to enable the conference committee appointed to  
5 resolve the differences on Senate Bill 1320 (the execution of  
6 written instruments relating to residential real estate  
7 transactions and deeds conveying residential real estate in  
8 connection with certain transactions involving residential real  
9 estate) to consider and take action on the following matters:

10 (1) House Rule 13, Sections 9(a)(3) and (4), are suspended  
11 to permit the committee to add text on a matter not in disagreement  
12 and not included in either the house or senate version of the bill  
13 by adding Subsection (d) to proposed Section 21.002, Business &  
14 Commerce Code, to read as follows:

15 (d) A purchaser or borrower who is a prevailing party in an  
16 action to void a deed under this section may recover reasonable and  
17 necessary attorney's fees.

18 Explanation: The addition of text is necessary to authorize  
19 purchasers or borrowers to recover reasonable and necessary  
20 attorney's fees in an action to void a deed under proposed Section  
21 21.002, Business & Commerce Code.

22 (2) House Rule 13, Section 9(a)(2), is suspended to permit  
23 the committee to omit text which is not in disagreement in SECTION 1  
24 of the bill, by omitting proposed Section 21.003, Business &

1 Commerce Code, which reads as follows:

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

4 (1) actual damages;

5 (2) exemplary damages in an amount equal to or greater  
6 than \$5,000 and not more than three times the amount of actual  
7 damages;

8 (3) court costs; and

9 (4) reasonable attorney's fees.

10 Explanation: The omission of the text is necessary to remove  
11 a civil action for damages under proposed Chapter 21, Business &  
12 Commerce Code.

13 (3) House Rule 13, Section 9(a)(4), is suspended to permit  
14 the committee to add text on a matter which is not included in  
15 either the house or senate version of the bill to proposed Chapter  
16 21, Business & Commerce Code, to read as follows:

17 Sec. 21.003. ACTION BY ATTORNEY GENERAL. (a) The attorney  
18 general may bring an action on behalf of the state:

19 (1) for injunctive relief to require compliance with  
20 this chapter;

21 (2) to recover a civil penalty of \$500 for each  
22 violation of this chapter; or

23 (3) for both injunctive relief and to recover the  
24 civil penalty.

25 (b) The attorney general is entitled to recover reasonable  
26 expenses incurred in obtaining injunctive relief or a civil  
27 penalty, or both, under this section, including court costs and

1 reasonable attorney's fees.

2 (c) The court may make such additional orders or judgments  
3 as are necessary to return to the purchaser a deed conveying  
4 residential real estate that the court finds was acquired by means  
5 of any violation of this chapter.

6 (d) In bringing or participating in an action under this  
7 chapter, the attorney general acts in the name of the state and does  
8 not establish an attorney-client relationship with another person,  
9 including a person to whom the attorney general requests that the  
10 court award relief.

11 (e) An action by the attorney general must be brought not  
12 later than the fourth anniversary of the date the deed was recorded.

13 Explanation: This change is necessary to authorize the  
14 attorney general to bring an action for injunctive relief or the  
15 recovery of a civil penalty and to allow a court to order the return  
16 of a deed to a purchaser under proposed Chapter 21, Business &  
17 Commerce Code.

18 (4) House Rule 13, Section 9(a)(4), is suspended to permit  
19 the committee to add text on a matter which is not included in  
20 either the house or senate version of the bill by adding the  
21 following section to the bill:

22 SECTION 2. Section 121.005(a), Civil Practice and Remedies  
23 Code, is amended to read as follows:

24 (a) An officer may not take the acknowledgment of a written  
25 instrument unless the officer knows or has satisfactory evidence  
26 that the acknowledging person is the person who executed the  
27 instrument and is described in it. An officer may accept, as

1 satisfactory evidence of the identity of an acknowledging person,  
2 only:

3 (1) the oath of a credible witness personally known to  
4 the officer; ~~or~~

5 (2) a current identification card or other document  
6 issued by the federal government or any state government that  
7 contains the photograph and signature of the acknowledging person;  
8 or

9 (3) with respect to a deed or other instrument  
10 relating to a residential real estate transaction, a current  
11 passport issued by a foreign country.

12 Explanation: This change is necessary to permit an officer  
13 to accept a foreign passport as proof of the identity of an  
14 individual acknowledging a written instrument relating to a  
15 residential real estate transaction.