

Suspending limitations on conference committee
jurisdiction, S.B. No. 1320

By: Lucio

S.R. No. 1259

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 82nd Legislature, Regular Session, 2011, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill 1320 (the execution of written instruments relating to residential real estate transactions and deeds conveying residential real estate in connection with certain transactions involving residential real estate) to consider and take action on the following matters:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text on a matter not in disagreement and not included in either the house or senate version of the bill by adding Subsection (d) to proposed Section 21.002, Business & Commerce Code, to read as follows:

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

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

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit text which is not in disagreement in SECTION 1 of the bill, by omitting proposed Section 21.003, Business &

Commerce Code, which reads as follows:

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

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

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

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill to proposed Chapter 21, Business & Commerce Code, to read as follows:

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

- (1) for injunctive relief to require compliance with this chapter;
- (2) to recover a civil penalty of \$500 for each violation of this chapter; or
- (3) for both injunctive relief and to recover the civil penalty.

(b) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a

civil penalty, or both, under this section, including court costs and reasonable attorney's fees.

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

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

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

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

(4) Senate Rule 12.03(4) is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill by adding the following section to the bill:

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

(a) An officer may not take the acknowledgment of a written instrument unless the officer knows or has satisfactory

evidence that the acknowledging person is the person who executed the instrument and is described in it. An officer may accept, as satisfactory evidence of the identity of an acknowledging person, only:

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

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

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

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

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on May 29, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate