A BILL TO BE ENTITLED

1   AN ACT

2 relating to an executory contract for the conveyance of real

3 property; providing a penalty.

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

5   SECTION 1. Section 5.064, Property Code, is amended to read

6 as follows:

7   Sec. 5.064. SELLER'S REMEDIES ON DEFAULT. A seller may

8 enforce the remedy of rescission or of forfeiture and acceleration

9 against a purchaser in default under an executory contract for

10 conveyance of real property only if:

11   (1)   the seller notifies the purchaser of:

12   (A)   the seller's intent to enforce a remedy under

13 this section; and

14   (B)   the purchaser's right to cure the default

15 within the 30-day period described by Section 5.065;

16   (2)   the purchaser fails to cure the default within the

17 30-day period described by Section 5.065; [and]

18   (3)   Section 5.066 does not apply; and

19   (4)   the contract has not been recorded.

20   SECTION 2. Section 5.066(a), Property Code, is amended to

21 read as follows:

22   (a)   If a purchaser defaults after the purchaser has paid 40

23 percent or more of the amount due or the equivalent of 48 monthly

24 payments under the executory contract or, regardless of the amount

1 the purchaser has paid, the executory contract has been recorded,

2 the seller is granted the power to sell, through a trustee

3 designated by the seller, the purchaser's interest in the property

4 as provided by this section. The seller may not enforce the remedy

5 of rescission or of forfeiture and acceleration after the contract

6 has been recorded.

7 SECTION 3. Section 5.076, Property Code, is amended by

8 adding Subsection (e) to read as follows:

9 (e) A seller who violates this section is liable to the

10 purchaser in the same manner and for the same amount as a seller who

11 violates Section 5.079 is liable to a purchaser, except the damages

12 may not exceed the greater of the value of the property or the

13 amount paid under the contract. An action to recover damages under

14 this section may be brought as an action for declaratory judgment

15 under Chapter 37, Civil Practice and Remedies Code. This subsection

16 does not limit or affect any other rights or remedies a purchaser

17 has under other law.

18 SECTION 4. Subchapter D, Chapter 5, Property Code, is

19 amended by adding Section 5.0765 to read as follows:

20 Sec. 5.0765. ENCUMBERED TITLE TRANSFERRED ON RECORDING.

21 Notwithstanding any other law, on recording, an executory contract

22 conveys legal title to the purchaser, subject to a lien retained by

23 the seller for the amount of the unpaid contract price less any

24 lawful deductions. Extrinsic evidence may be used to supply the

25 legal description of the property if that information is not

26 apparent from the contract.

27 SECTION 5. Section 5.081, Property Code, is amended by

1 amending Subsection (a) and adding Subsection (h) to read as
2 follows:

3   (a) A purchaser, at any time and without paying penalties or
4 charges of any kind, is entitled to convert the purchaser's
5 interest in property under an executory contract into recorded,
6 legal title in accordance with this section, regardless of whether
7 the seller has recorded the executory contract.

8   (h) This section may not be construed to limit the
9 purchaser's equitable interest in the property established by other
10 law, if any, or any other rights of the purchaser under this
11 subchapter.

12   SECTION 6. Section 5.066(g), Property Code, is repealed.

13   SECTION 7. The changes in law made by this Act apply to an
14 executory contract entered into on or after the effective date of
15 this Act. An executory contract entered into before the effective
16 date of this Act is governed by the law in effect on the date the
17 contract was entered into, and that law is continued in effect for
18 that purpose.

19   SECTION 8. This Act takes effect September 1, 2013.