

By: Rodriguez

S.B. No. 1227

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of an on-bill repayment program to
3 encourage improvements to real property related to water
4 efficiency; authorizing a fee.

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

6 SECTION 1. Subchapter A, Chapter 5, Property Code, is
7 amended by adding Section 5.021 to read as follows:

8 Sec. 5.021. NOTICE OF ON-BILL REPAYMENT OBLIGATIONS. (a) A
9 seller of residential real property that is subject to an
10 obligation under Subchapter P, Chapter 13, Water Code, shall give
11 to the purchaser of the property a written notice that discloses the
12 obligation.

13 (b) The seller shall deliver the notice to the purchaser
14 before the date the executory contract binds the purchaser to
15 purchase the property.

16 (c) This section does not apply to a transfer:

17 (1) under a court order or foreclosure sale;

18 (2) by a trustee in bankruptcy;

19 (3) to a mortgagee by a mortgagor or successor in
20 interest or to a beneficiary of a deed of trust by a trustor or
21 successor in interest;

22 (4) by a mortgagee or a beneficiary under a deed of
23 trust who has acquired the land at a sale conducted under a power of
24 sale under a deed of trust or a sale under a court-ordered

1 foreclosure or has acquired the land by a deed in lieu of
2 foreclosure;

3 (5) by a fiduciary in the course of the administration
4 of a decedent's estate, guardianship, conservatorship, or trust;

5 (6) from one co-owner to another co-owner of an
6 undivided interest in the real property;

7 (7) to a spouse or a person in the lineal line of
8 consanguinity of the seller;

9 (8) to or from a governmental entity; or

10 (9) of only a mineral interest, leasehold interest, or
11 security interest.

12 (d) A violation of this section does not invalidate a
13 conveyance. A seller who fails to make a disclosure as required by
14 this section is liable to the transferee for three times the actual
15 damages incurred.

16 SECTION 2. Chapter 13, Water Code, is amended by adding
17 Subchapter P to read as follows:

18 SUBCHAPTER P. ON-BILL REPAYMENT PROGRAM

19 Sec. 13.601. DEFINITIONS. In this subchapter:

20 (1) "Charge" means an amount included on a retail
21 water or sewer service bill that is due under an on-bill repayment
22 program.

23 (2) "Eligible water improvement" means a water
24 improvement that meets the requirements for participation in an
25 on-bill repayment program.

26 (3) "Improved property" means property on which a
27 water improvement has been built under an on-bill repayment

1 program.

2 (4) "Lender" means a person who provides financing on
3 an eligible water improvement or to whom payment is owed for
4 financing an eligible water improvement that is being repaid
5 through an on-bill repayment program.

6 (5) "Obligation" means money owed under an agreement
7 to repay financed eligible water improvements through an on-bill
8 repayment program.

9 Sec. 13.602. ON-BILL REPAYMENT PROGRAM. (a) The
10 commission by rule shall establish an on-bill repayment program to
11 facilitate financing and repayment of eligible water improvements
12 between customers, lenders, and retail public utilities.

13 (b) Under the program, a customer and a lender who finances
14 an eligible water improvement on the customer's property may agree
15 to add the customer's loan payments to the customer's retail water
16 or sewer service bill. The commission shall require the retail
17 public utility that provides service to the customer to participate
18 in the program after the commission receives a written request for
19 participation from the customer or lender.

20 Sec. 13.603. MASTER SERVICER. (a) The commission shall
21 appoint a government agency or a private person to administer the
22 program as master servicer. The master servicer shall:

23 (1) manage payments and maintain documentation for all
24 program participants;

25 (2) collect money paid to retail public utilities
26 under the program and promptly remit payment to lenders as
27 applicable; and

1 (3) perform all other duties assigned by commission
2 rule.

3 (b) The commission by rule shall:

4 (1) authorize the master servicer to collect fees, as
5 approved by the commission, from on-bill repayment program lenders
6 to cover costs; and

7 (2) grant the master servicer any other rights or
8 powers the commission considers necessary.

9 Sec. 13.604. PROGRAM STANDARDS. The commission by rule
10 shall adopt minimum standards for the on-bill repayment program. A
11 retail public utility may exceed the standards. The minimum
12 standards must include:

13 (1) a list of water improvement projects that are
14 eligible for the on-bill repayment program;

15 (2) a limitation or prohibition on the removal of
16 water improvements from a property before an outstanding on-bill
17 repayment obligation is satisfied;

18 (3) a requirement that any outstanding obligation
19 created under the program:

20 (A) remains in effect regardless of any change in
21 ownership or possession of the improved property; and

22 (B) at all times constitutes an obligation of the
23 retail water or sewer service customer of record on the improved
24 property;

25 (4) a requirement that any arrearages on charges under
26 the program accruing before transfer of the approved property,
27 unless expressly assumed, remain the responsibility of the retail

1 water or sewer service customer of record on the improved property
2 at the time the arrearage accrued; and

3 (5) a requirement that charges under the program be
4 included on a customer's retail water or sewer service bill.

5 Sec. 13.605. FAILURE TO PAY. If a customer fails to pay the
6 full amount of a monthly charge under the program, the failure to
7 pay is treated as a failure to pay for retail water or sewer
8 service.

9 Sec. 13.606. PARTIAL PAYMENT. The commission shall adopt
10 rules to determine the division of a partial payment between the
11 retail water or sewer services billed and the on-bill repayment
12 program charge.

13 Sec. 13.607. LENDERS. (a) A lender shall determine loan
14 eligibility, including credit evaluations.

15 (b) A lender who participates in the program must work with
16 the master servicer when providing a loan under the program.

17 (c) The commission by rule shall approve the financing
18 structures through which a lender may provide financing under the
19 on-bill repayment program.

20 Sec. 13.608. ACCEPTANCE OF OBLIGATION. If a customer
21 applies for and accepts retail water or sewer service on an improved
22 property that is subject to an outstanding obligation under an
23 on-bill repayment program, the customer is considered to have
24 accepted the obligation for the charges that accrue under the
25 on-bill repayment program during the receipt of services.

26 Sec. 13.609. EXCEPTION RELATING TO REMOVING IMPROVEMENT.
27 Notwithstanding any other provision of this subchapter, the

1 commission by rule may exempt any eligible water improvement or any
2 class or category of eligible water improvement from a limitation
3 or prohibition prescribed by the commission under Section
4 13.604(3).

5 Sec. 13.610. RECORD FILED WITH COUNTY CLERK. (a) The
6 commission by rule shall require a retail public utility or the
7 utility's agent to record notice of an obligation on an improved
8 property with the county clerk of the county in which the property
9 is located.

10 (b) The notice required by this section does not create a
11 security interest in the improved property.

12 (c) On satisfaction of the obligation, the retail public
13 utility or the utility's agent shall file notice with the county
14 clerk in the county in which the property is located that the
15 obligation has been satisfied.

16 (d) The county clerk shall file notices under this section
17 with the deed records.

18 Sec. 13.611. REVENUES FOR RATE PURPOSES. Payments
19 collected by a utility under this subchapter are not revenues that
20 may be considered for the purposes of Subchapter F.

21 SECTION 3. As soon as practicable after the effective date
22 of this Act, but not later than January 1, 2014, the Texas
23 Commission on Environmental Quality shall adopt rules to implement
24 the provisions of this Act.

25 SECTION 4. This Act takes effect September 1, 2013.