

1-1 By: Canales (Senate Sponsor - Lucio) H.B. No. 311
1-2 (In the Senate - Received from the House April 27, 2015;
1-3 May 4, 2015, read first time and referred to Committee on Business
1-4 and Commerce; May 18, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 18, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9			X	
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 311 By: Watson

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to an executory contract for the conveyance of real
1-22 property; providing a civil penalty.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 5.062(e), Property Code, is amended to
1-25 read as follows:

1-26 (e) Sections 5.066, 5.067, 5.071, 5.075, 5.079, 5.081, and
1-27 5.082 do not apply to an executory contract described by Subsection
1-28 (a)(2).

1-29 SECTION 2. Section 5.064, Property Code, is amended to read
1-30 as follows:

1-31 Sec. 5.064. SELLER'S REMEDIES ON DEFAULT. A seller may
1-32 enforce the remedy of rescission or of forfeiture and acceleration
1-33 against a purchaser in default under an executory contract for
1-34 conveyance of real property only if:

1-35 (1) the seller notifies the purchaser of:

1-36 (A) the seller's intent to enforce a remedy under
1-37 this section; and

1-38 (B) the purchaser's right to cure the default
1-39 within the 30-day period described by Section 5.065;

1-40 (2) the purchaser fails to cure the default within the
1-41 30-day period described by Section 5.065; ~~and~~

1-42 (3) Section 5.066 does not apply; and

1-43 (4) the contract has not been recorded in the county in
1-44 which the property is located.

1-45 SECTION 3. Section 5.066(a), Property Code, is amended to
1-46 read as follows:

1-47 (a) If a purchaser defaults after the purchaser has paid 40
1-48 percent or more of the amount due or the equivalent of 48 monthly
1-49 payments under the executory contract or, regardless of the amount
1-50 the purchaser has paid, the executory contract has been recorded,
1-51 the seller is granted the power to sell, through a trustee
1-52 designated by the seller, the purchaser's interest in the property
1-53 as provided by this section. The seller may not enforce the remedy
1-54 of rescission or of forfeiture and acceleration after the contract
1-55 has been recorded.

1-56 SECTION 4. Section 5.070, Property Code, is amended by
1-57 adding Subsection (d) to read as follows:

1-58 (d) If the executory contract is recorded, the seller is not
1-59 required to continue insuring the property.

1-60 SECTION 5. The heading to Section 5.072, Property Code, is

2-1 amended to read as follows:

2-2 Sec. 5.072. ORAL AGREEMENTS [~~PROHIBITED~~].

2-3 SECTION 6. Section 5.072, Property Code, is amended by
2-4 amending Subsection (a) and adding Subsection (g) to read as
2-5 follows:

2-6 (a) Except as provided by Subsection (g), an [~~An~~] executory
2-7 contract is not enforceable unless the contract is in writing and
2-8 signed by the party to be bound or by that party's authorized
2-9 representative.

2-10 (g) If the parties enter into an oral executory contract,
2-11 the contract is enforceable if the purchaser occupies the property
2-12 as a homestead, maintains or makes improvements to the property,
2-13 and provides the seller with consideration. If the seller fails to
2-14 reduce the oral contract to writing and execute it, the seller is
2-15 considered to have failed to provide the notice required by this
2-16 section.

2-17 SECTION 7. Section 5.076, Property Code, is amended by
2-18 adding Subsection (e) to read as follows:

2-19 (e) A seller who violates this section is liable to the
2-20 purchaser in the same manner and for the same amount as a seller who
2-21 violates Section 5.079 is liable to a purchaser, except the damages
2-22 may not exceed \$500 for each calendar year of noncompliance. This
2-23 subsection does not limit or affect any other rights or remedies a
2-24 purchaser has under other law.

2-25 SECTION 8. Section 5.077, Property Code, is amended by
2-26 adding Subsection (e) to read as follows:

2-27 (e) The requirements of this section continue to apply after
2-28 a purchaser obtains title to the property by conversion or any other
2-29 process.

2-30 SECTION 9. Section 5.079(a), Property Code, is amended to
2-31 read as follows:

2-32 (a) A recorded executory contract shall be the same as a
2-33 deed with a vendor's lien. The vendor's lien is for the amount of
2-34 the unpaid contract price, less any lawful deductions, and may be
2-35 enforced by foreclosure sale under Section 5.066 or by judicial
2-36 foreclosure. A general warranty is implied unless otherwise
2-37 limited by the recorded executory contract. If an executory
2-38 contract has not been recorded or converted under Section 5.081,
2-39 the [~~The~~] seller shall transfer recorded, legal title of the
2-40 property covered by the executory contract to the purchaser not
2-41 later than the 30th day after the date the seller receives the
2-42 purchaser's final payment due under the contract.

2-43 SECTION 10. Section 5.081, Property Code, is amended by
2-44 amending Subsection (a) and adding Subsection (h) to read as
2-45 follows:

2-46 (a) A purchaser, at any time and without paying penalties or
2-47 charges of any kind, is entitled to convert the purchaser's
2-48 interest in property under an executory contract into recorded,
2-49 legal title in accordance with this section, regardless of whether
2-50 the seller has recorded the executory contract.

2-51 (h) This section may not be construed to limit the
2-52 purchaser's interest in the property established by other law, if
2-53 any, or any other rights of the purchaser under this subchapter.

2-54 SECTION 11. (a) The changes in law made by this Act to
2-55 Sections 5.064 and 5.066, Property Code, apply only to a default
2-56 that occurs on or after the effective date of this Act. A default
2-57 that occurred before the effective date of this Act is governed by
2-58 the law in effect on the date the default occurred, and that law is
2-59 continued in effect for that purpose.

2-60 (b) Sections 5.072, 5.079, and 5.081, Property Code, as
2-61 amended by this Act, apply to an executory contract entered into
2-62 before, on, or after the effective date of this Act.

2-63 (c) The changes in law made by this Act to Sections 5.070 and
2-64 5.076, Property Code, apply to an executory contract entered into
2-65 on or after the effective date of this Act. An executory contract
2-66 entered into before the effective date of this Act is governed by
2-67 the law in effect on the date the contract was entered into, and
2-68 that law is continued in effect for that purpose.

2-69 (d) The changes in law made by this Act to Section 5.077,

3-1 Property Code, apply to an executory contract that is converted to
3-2 transfer legal title on or after the effective date of this Act. An
3-3 executory contract that is converted to transfer legal title before
3-4 the effective date of this Act is governed by the law in effect on
3-5 the date the contract was entered into, and that law is continued in
3-6 effect for that purpose.

3-7 SECTION 12. This Act takes effect September 1, 2015.

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