

By: Guillen

H.B. No. 2214

A BILL TO BE ENTITLED

AN ACT

relating to the use of earnest money contracts to purchase land in certain border and economically distressed counties.

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

SECTION 1. Sections 232.033(a) and (h), Local Government Code, are amended to read as follows:

(a) Brochures, publications, ~~and~~ advertising of any form, and earnest money contracts relating to ~~subdivided~~ land required to be platted under this subchapter:

(1) may not contain any misrepresentation; ~~and~~

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities; and

(3) if a plat for the land has not been finally approved and recorded, must include a notice that:

(A) subject to Section 232.045, a contract for the sale of any portion of the land may not be entered into until the land receives final plat approval under Section 232.024; and

(B) the land may not be possessed or occupied until:

(i) the land receives final plat approval under Section 232.024; and

(ii) all water and sewer service facilities

1 for the lot are connected or installed in compliance with the model
2 rules adopted under Section 16.343, Water Code.

3 (h) A person who is a seller of lots for which a plat is
4 required under this subchapter [~~in a subdivision~~], or a subdivider
5 or an agent of a seller or subdivider, commits an offense if the
6 person knowingly authorizes or assists in the publication,
7 advertising, distribution, or circulation of any statement or
8 representation that the person knows is false concerning any
9 [~~subdivided~~] land offered for sale or lease. An offense under this
10 section is a Class A misdemeanor.

11 SECTION 2. Subchapter B, Chapter 232, Local Government
12 Code, is amended by adding Section 232.045 to read as follows:

13 Sec. 232.045. EARNEST MONEY CONTRACTS. (a) This section
14 applies in addition to other applicable law and prevails to the
15 extent of a conflict with that other law. This section applies only
16 to a person who is a seller or subdivider and who is a licensed,
17 registered, or otherwise credentialed residential mortgage loan
18 originator under applicable state law, federal law, and the
19 Nationwide Mortgage Licensing System and Registry. A person may,
20 before a plat has been finally approved and recorded:

21 (1) enter into an earnest money contract with a
22 potential purchaser and accept payment under the contract in an
23 amount of \$250 or less; and

24 (2) advertise in accordance with Section 232.033.

25 (b) An earnest money contract is void if the plat for the
26 land has not been finally approved and recorded before the 91st day
27 after the date the earnest money contract is signed by the potential

1 purchaser, unless the potential purchaser agrees in writing to
2 extend the period for plat approval and recording for an additional
3 90-day period. Only one extension may be granted under this
4 subsection.

5 (c) If an earnest money contract is void under Subsection
6 (b), the seller shall refund all earnest money paid to the potential
7 purchaser not later than the 30th day after the date the earnest
8 money contract becomes void. If the seller fails to refund the
9 earnest money to the potential purchaser in violation of this
10 subsection, the potential purchaser, in a suit to recover the
11 earnest money, may recover an amount equal to three times the amount
12 of the earnest money required to be refunded, plus reasonable
13 attorney's fees.

14 (d) Before entering into an earnest money contract, a person
15 must provide written notice to the attorney general and to the local
16 government responsible for approving the plat. The notice must
17 include:

18 (1) a statement of intent to enter into an earnest
19 money contract under this section;

20 (2) a legal description of the land to be included in
21 the subdivision;

22 (3) each county in which all or part of the subdivision
23 is located; and

24 (4) the number of proposed individual lots to be
25 included in the subdivision.

26 (e) An earnest money contract must contain the following
27 statement:

1 "NOTICE: THIS IS AN EARNEST MONEY CONTRACT ONLY. THE MAXIMUM
2 AMOUNT THAT THE SELLER MAY COLLECT UNDER THIS CONTRACT IS \$250. THE
3 SELLER MAY NOT DEMAND ANY ADDITIONAL PAYMENT UNTIL A PLAT OF THE
4 SUBDIVISION HAS BEEN APPROVED AND FILED BY THE COUNTY CLERK."

5 SECTION 3. Section [232.021\(9\)](#), Local Government Code, is
6 repealed.

7 SECTION 4. This Act takes effect September 1, 2015.