

By: Guillen

H.B. No. 1386

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the use of earnest money contracts and other offers for
3 the sale of land before a subdivision plat is filed in certain
4 border counties.

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

6 SECTION 1. Subchapter B, Chapter 232, Local Government
7 Code, is amended by adding Section 232.045 to read as follows:

8 Sec. 232.045. EARNEST MONEY CONTRACTS BEFORE PLAT IS FILED.

9 (a) This section applies in addition to other applicable law and
10 prevails to the extent of a conflict with that other law, including
11 Sections 232.031(a) and (d). This section applies only to a person
12 who is a seller or subdivider and who is a licensed, registered, or
13 otherwise credentialed residential mortgage loan originator under
14 applicable state law, federal law, and the Nationwide Mortgage
15 Licensing System and Registry. A person may, before a plat has been
16 finally approved and recorded, enter into an earnest money contract
17 with a potential purchaser and accept payment under the contract in
18 an amount of \$250 or less.

19 (b) An earnest money contract is void if the plat for the
20 land has not been finally approved and recorded before the 91st day
21 after the date the earnest money contract is signed by the potential
22 purchaser, unless the potential purchaser agrees in writing to
23 extend the period for plat approval and recording for an additional
24 90-day period. Only one extension may be granted under this

1 subsection.

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

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

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

17 (2) a legal description of the land to be included in
18 the subdivision;

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

21 (4) the number of proposed individual lots to be
22 included in the subdivision.

23 (e) An earnest money contract must contain the following
24 statement:

25 "NOTICE: THIS IS AN EARNEST MONEY CONTRACT ONLY. THE MAXIMUM
26 AMOUNT THAT THE SELLER MAY COLLECT UNDER THIS CONTRACT IS \$250. THE
27 SELLER MAY NOT DEMAND ANY ADDITIONAL PAYMENT UNTIL A PLAT OF THE

1 SUBDIVISION HAS BEEN FILED WITH THE COUNTY CLERK."

2 SECTION 2. Section 232.021(9), Local Government Code, is
3 repealed.

4 SECTION 3. This Act takes effect September 1, 2017.