

By: Zaffirini

S.B. No. 2160

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 232.045. EARNEST MONEY CONTRACTS BEFORE PLAT IS APPROVED. (a) This section applies in addition to other applicable law and prevails to the extent of a conflict with that other law, including Sections 232.031(a) and (d). This section applies only to a person who is a seller or subdivider and who is a licensed, registered, or otherwise credentialed residential mortgage loan originator under applicable state law, federal law, and the Nationwide Mortgage Licensing System and Registry. A person may, after the subdivider has submitted a plat application to the county but before a plat has been finally approved and recorded, enter into an earnest money contract with a potential purchaser for a lot or lots in the subdivision and accept payment under the contract in an amount of \$250 or less.

(b) An earnest money contract is void if the plat for the land has not been finally approved and recorded before the 91st day after the date the earnest money contract is signed by the potential purchaser, unless the potential purchaser agrees in writing to

1 extend the period for plat approval and recording for an additional
2 90-day period. Only one extension may be granted under this
3 subsection.

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

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

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

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

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

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

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

26 "NOTICE: THIS IS AN EARNEST MONEY CONTRACT ONLY. THE MAXIMUM
27 AMOUNT THAT THE SELLER MAY COLLECT UNDER THIS CONTRACT IS \$250. THE

1 SELLER MAY NOT DEMAND ANY ADDITIONAL PAYMENT UNTIL A FINAL PLAT OF
2 THE SUBDIVISION HAS BEEN FILED AND APPROVED BY THE COUNTY
3 COMMISSIONERS COURT."

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

6 SECTION 3. The change in law made by this Act to Chapter
7 232, Local Government Code, applies only to a subdivision plat
8 application submitted for approval on or after the effective date
9 of this Act. A subdivision plat application submitted for approval
10 before the effective date of this Act is governed by the law in
11 effect when the application was submitted, and the former law is
12 continued in effect for that purpose.

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