

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 4374
By: Cyrier (Zaffirini)
Local Government
5/19/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Rapid population growth in urban areas of Texas has led to the increasing subdivision of land in formerly rural areas to provide an ever-increasing number of residential lots for homes. When this subdivision is accomplished through a contract in which the seller retains the deed to the property until the purchaser has made all payments, known as an executory contract for the conveyance of property, the purchaser may lose all equity that the buyer has accumulated in the land because of a single missed payment. Current state restrictions on the use of executory contracts that would protect purchasers only presumptively apply to the conveyance of residential lots of one acre or less, but in these formerly rural areas residential lots as large as 20 acres are frequently being sold under executory contracts.

H.B. 4374 would authorize the commissioners court of certain counties to adopt an order requiring an executory contract for the conveyance of land used or to be used as a residence located in the county to be subject to statutory provisions regarding executory contracts for the conveyance of certain residential property. H.B. 4374 also would require the order to specify a method for determining whether the land is used or to be used as a residence and prohibits the order from including an executory contract for the conveyance of certain land.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 4374 amends current law relating to the use of executory contracts for the purchase of land to be used as a residence in certain counties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 5, Property Code, by adding Section 5.0622, as follows:

Sec. 5.0622. ADDITIONAL APPLICABILITY: CERTAIN COUNTIES. (a) Provides that this section applies only to a county with a population of less than 100,000 that is located in a metropolitan statistical area as defined by the federal Office of Management and Budget:

(1) with a population of more than 1.5 million; and

(2) adjacent to a county located in a different metropolitan statistical area as defined by the federal Office of Management and Budget with a population of more than 2 million.

(b) Authorizes the commissioners court of a county to adopt an order requiring an executory contract for the conveyance of land used or to be used as a residence located in the county to be subject to Subchapter D (Executory Contract for

Conveyance). Requires that the order specify a method for determining whether the land is used or to be used as a residence.

(c) Prohibits the order from including an executory contract for the conveyance of land:

(1) described by Section 5.062 (b) (relating to the nonapplicability of Subchapter D to certain transactions under an executory contract), (c) (relating to the nonapplicability of Subchapter D to certain executory contracts), or (d) (relating to the nonapplicability of certain sections to certain transactions involving an executory contract for conveyance); or

(2) that is to be used primarily for agricultural use, as defined by Section 1-d (Assessment for Tax Purposes of Lands Designated for Agricultural Use), Article VIII (Taxation and Revenue), Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-d-1 (Taxation of Certain Open-Space Land), Article VIII, Texas Constitution, and for which no part of the land is to be used as a residence.

(d) Authorizes the executory contract for the conveyance of land, if a tract described by Subsection (c)(2) ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, or any part of the land is used as a residence, to be included in an order authorized by this section.

SECTION 2. Amends Subchapter D, Chapter 5, Property Code, by adding Section 5.087, as follows:

Sec. 5.087. ADDITIONAL PROVISIONS: CERTAIN COUNTIES. (a) Provides that this section applies only to a county adopting an order under Section 5.0622.

(b) Prohibits the commissioners court from modifying the provisions of Subchapter D except the commissioners court is authorized to provide in the order that an executory contract to which the order applies is prohibited from being used to purchase land for residential purposes unless the conversion authorized by Section 5.081 (Right to Convert Contract) is required to occur not later than three years after the date the executory contract is entered into.

SECTION 3. Provides that Sections 5.0622 and 5.087, Property Code, as added by this Act, apply only to an executory contract entered into on or after the date the commissioners court adopts an order authorized by this Act.

SECTION 4. Effective date: September 1, 2021.