

SUBJECT: Requiring price disclosure for residential real estate sales

COMMITTEE: Ways and Means — favorable, with amendments

VOTE: 5 ayes — J. Keffer, Villarreal, Ritter, Smithee, Woolley
1 nay — Paxton
3 absent — Edwards, Grusendorf, Luna

SENATE VOTE: On final passage, April 7 — 21-4 (Carona, Eltife, Shapiro, Staples)

WITNESSES: (*On original version:*)
For — Michael Amezquita, Texas Association of Appraisal Districts and Bexar Appraisal District; Ken Nolan, Dallas Central Appraisal District, Martha Schumacher

Against — Michele Molter, Texas Apartment Association; Larry Niemann, Texas Mini Storage Association

DIGEST: CSSB 282, as amended, would add subch. D to Tax Code, ch. 22, requiring a residential real estate buyer or grantee to file a sales price disclosure report following the sale or transfer of real property within 10 days after the deed was recorded. Residential property would include single and multi-family residences, a mobile home, or the residential portion, up to 20 acres, of farm or ranch property. The bill would not apply to hotels, motels, or similar structures designed to provide temporary lodging or accommodations. The bill would apply to property sales that occur on or after January 1, 2006.

The report would have to be filed with the chief appraiser of the appraisal district for the county in which the property was located. A chief appraiser could use information included in this report in determining the market value of a property but could not increase the market value solely on the basis of this information.

A chief appraiser could bring action for an injunction in court to compel

the filing of a sales price disclosure report. The court could order a person to comply and assess costs and attorney's fees against that person.

Several exceptions to the reporting requirement would be allowed, including if the sale was in response to a court order or in lieu of foreclosure, made by a bankruptcy trustee, made under a deed of trust, made by one co-owner to another, or made to a spouse, child, or parent.

The bill specifies the information that would be required on a sales price disclosure report, including:

- the names of the seller and purchaser;
- a description of the property;
- the sales price of the property; and
- the method of purchase.

The form also would state that making a false statement on the form would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) or state jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000). A buyer's agent, lender, insurance company, or attorney who prepared a report would not be liable for unintentional errors or omissions.

Each appraisal district would have to make report forms available and allow filing by mail or hand delivery. Chief appraisers would have the option of accepting the report by fax or electronic submittal. Upon receipt of the form, the chief appraiser would provide the filer with written acknowledgment of its receipt.

Confidentiality. A report filed under this bill would be confidential and available for disclosure only to an appraiser. Exceptions under which the information could be disclosed would include judicial or administrative subpoena of the records, disclosure to the purchaser, the comptroller, or local appraisal district, a taxation proceeding involving the purchaser of the property or the appraisal district's appraisal process relating to a similar property, for anonymous statistical purposes, for reports required of the appraisal district, or for the collection of delinquent taxes.

Unauthorized disclosure would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

**SUPPORTERS
SAY:**

Chief appraisers need mandatory real property sales price disclosure, which Texas, unlike most other states, does not require. Not knowing how much buyers pay for property inhibits the ability of appraisers to appraise it at full market value as required by law. The sales price is the best measure of a property's value. Having access to it would enhance equity in the appraisal process.

Mandatory disclosure would be aimed at acquiring undisclosed sales prices of high-dollar homes, which may never be put on the open market and the sales prices of which often are contractually concealed. Although they may represent only a small percentage of taxable real estate, these properties represent millions of dollars in untaxed value. In fairness to other taxpayers, the full value of these most expensive properties should be reflected on the appraisal rolls.

**OPPONENTS
SAY:**

Property owners and realtors already are providing 80 percent of sales price data from the multiple listing service (MLS) through agreements with local officials authorized as part of property appraisal reforms of the late 1970s. Appraisers are trying to use the law to obtain what they have been unable to negotiate.

Mandatory disclosure would be an unnecessary infringement on property owners' privacy and a violation of the proprietary rights of realtors to use the MLS, which is not readily available to the general public.

**OTHER
OPPONENTS
SAY:**

The ostensible purpose of disclosure is to provide appraisers with sales prices for more accurate value appraisals. This bill would give them much more data than is necessary.

A buyer of real property might not be aware of the sales price disclosure obligations under this bill and may fail to prepare the report on time. This particularly would be a problem for an individual who completed the sale without aid from a real estate agent, title insurance company, or lender.

NOTES:

Committee amendment no. 1 would add the confidentiality provisions. Committee amendment no. 2 would add a definition of "residential real property" and stipulate that the bill would apply only to residential real property. It also would remove a provision in the Senate-passed version that would except from the reporting requirement the sale or transfer of property to a utility company if the property was an easement, license, or

right-of-way or if the property was being sold as a mineral interest.

Most of the provisions in SB 282 were included in HB 3 by J. Keffer as passed by the House, but were not included in the Senate-passed version.

The bill's fiscal note projects a total net gain to the state by fiscal 2010 of \$11.6 million. This projection was based on estimates in a comptroller's survey of the amount of property value gain in large appraisal districts and would reflect a gain to the state under the school finance formulas from higher property values in school districts. School districts, cities, counties, and other local governments levying an ad valorem tax also are project to gain revenue.