

BILL ANALYSIS

Senate Research Center
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S.B. 1484
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many Texans with bad credit, or those who do not have money for a down payment, will not qualify for a loan through a bank or a mortgage lender. If they wish to buy a home, their only chance may be a seller-financed mortgage. Usually the seller will draw up a note that has the total amount the buyer owes and an interest rate. However, the buyer may not know that the payments are being applied to interest and that there will be a balloon payment of the principal at the end of the mortgage. If there is a dispute about whether the mortgage payments are being applied correctly, the buyer may not know about the dispute until a foreclosure notice is received. Additionally, the seller may not know that the buyer has purchased insurance or intends to purchase insurance and the seller may apply payments toward insurance.

As proposed, S.B. 1484 requires sellers of real property who finance the sale, rather than using a third-party lender or bank, to provide annual accounting statements to the buyer so the buyer knows on a timely and regular basis how payments are being applied, and the amount of principal still owing. This bill also requires a seller to respond to a written request from a buyer for the amount that is owed, as is required in a third-party financed mortgage.

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 A, Chapter 5, Property Code, by adding Section 5.019, as follows:

Sec. 5.019. ANNUAL ACCOUNTING STATEMENTS REQUIRED FOR SELLER-FINANCED SALES OF RESIDENTIAL REAL PROPERTY. (a) Provides that this section applies only to a seller of residential real property who finances the sale of residential real property owned by the seller by delivering title to the property to the purchaser in exchange for an agreement by the purchaser to pay the purchase price to the seller by periodic installments.

(b) Requires a seller who enters into a transaction described by Subsection (a) to provide the purchaser with an annual accounting statement in January of each year until the property is fully paid for by the purchaser. Requires the statement to be postmarked not later than January 31 if the seller mails the statement to the purchaser.

(c) Requires the statement required by Subsection (b) to include certain information.

(d) Requires a seller to provide, at no cost to the purchaser, a written statement of the amount of the purchase price still owed by the purchaser not later than the 10th day after the date the purchaser makes a written request for the statement.

(e) Provides that a seller who fails to comply with Subsection (b) is liable to the purchaser for certain damages and attorney's fees.

(f) Provides that a seller who fails to comply with Subsection (d) is liable to the purchaser for certain damages and attorney's fees.

(g) Authorizes a purchaser to deduct an amount owed to the purchaser by the seller under Subsection (e) or (f) without formal action.

(h) Prohibits a seller who fails to comply with Subsection (b) or (d) after receiving a written notice from the purchaser of the seller's violation from controverting a sworn statement from the purchaser regarding a fact required to be reflected in the statement.

(i) Provides that an agreement that purports to waive a right or exempt a party from a liability or duty under this section is void and unenforceable.

SECTION 2. Provides that this Act applies to a financing agreement entered into before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2007.