

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 127 / 2015
Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 311 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

<u>Eddie Lucio</u> (Sen. Lucio)	<u>Diego Bernal</u> (Diego Bernal)
<u>Sen. Elife</u> (Sen. Elife)	<u>JM Lozano</u> (JM Lozano)
<u>Sen. Uresti</u> (Sen. Uresti)	<u>Mary Gonzalez</u> (Mary Gonzalez)
<u>Sen. L. Taylor</u> (Sen. L. Taylor)	<u>Leighton Schubert</u> (Leighton Schubert)
<u>Sen. Rodriguez</u> (Sen. Rodriguez)	<u>Terry Campos</u> (Terry Campos)
On the part of the Senate	On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 311

A BILL TO BE ENTITLED

AN ACT

relating to an executory contract for the conveyance of real property; providing a civil penalty.

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

SECTION 1. Section 5.062(e), Property Code, is amended to read as follows:

(e) Sections 5.066, 5.067, 5.071, 5.075, 5.079, 5.081, and 5.082 do not apply to an executory contract described by Subsection (a)(2).

SECTION 2. Section 5.064, Property Code, is amended to read as follows:

Sec. 5.064. SELLER'S REMEDIES ON DEFAULT. A seller may enforce the remedy of rescission or of forfeiture and acceleration against a purchaser in default under an executory contract for conveyance of real property only if:

(1) the seller notifies the purchaser of:

(A) the seller's intent to enforce a remedy under this section; and

(B) the purchaser's right to cure the default within the 30-day period described by Section 5.065;

(2) the purchaser fails to cure the default within the 30-day period described by Section 5.065; ~~and~~

(3) Section 5.066 does not apply; and

(4) the contract has not been recorded in the county in

1 which the property is located.

2 SECTION 3. Section 5.066(a), Property Code, is amended to
3 read as follows:

4 (a) If a purchaser defaults after the purchaser has paid 40
5 percent or more of the amount due or the equivalent of 48 monthly
6 payments under the executory contract or, regardless of the amount
7 the purchaser has paid, the executory contract has been recorded,
8 the seller is granted the power to sell, through a trustee
9 designated by the seller, the purchaser's interest in the property
10 as provided by this section. The seller may not enforce the remedy
11 of rescission or of forfeiture and acceleration after the contract
12 has been recorded.

13 SECTION 4. Section 5.070, Property Code, is amended by
14 adding Subsection (d) to read as follows:

15 (d) If the executory contract is recorded, the seller is not
16 required to continue insuring the property.

17 SECTION 5. Section 5.076, Property Code, is amended by
18 adding Subsection (e) to read as follows:

19 (e) A seller who violates this section is liable to the
20 purchaser in the same manner and for the same amount as a seller who
21 violates Section 5.079 is liable to a purchaser, except the damages
22 may not exceed \$500 for each calendar year of noncompliance. This
23 subsection does not limit or affect any other rights or remedies a
24 purchaser has under other law.

25 SECTION 6. Section 5.077, Property Code, is amended by
26 adding Subsection (e) to read as follows:

27 (e) The requirements of this section continue to apply after

1 a purchaser obtains title to the property by conversion or any other
2 process.

3 SECTION 7. Section 5.079(a), Property Code, is amended to
4 read as follows:

5 (a) A recorded executory contract shall be the same as a
6 deed with a vendor's lien. The vendor's lien is for the amount of
7 the unpaid contract price, less any lawful deductions, and may be
8 enforced by foreclosure sale under Section 5.066 or by judicial
9 foreclosure. A general warranty is implied unless otherwise
10 limited by the recorded executory contract. If an executory
11 contract has not been recorded or converted under Section 5.081,
12 the [The] seller shall transfer recorded, legal title of the
13 property covered by the executory contract to the purchaser not
14 later than the 30th day after the date the seller receives the
15 purchaser's final payment due under the contract.

16 SECTION 8. Section 5.081, Property Code, is amended by
17 amending Subsection (a) and adding Subsection (h) to read as
18 follows:

19 (a) A purchaser, at any time and without paying penalties or
20 charges of any kind, is entitled to convert the purchaser's
21 interest in property under an executory contract into recorded,
22 legal title in accordance with this section, regardless of whether
23 the seller has recorded the executory contract.

24 (h) This section may not be construed to limit the
25 purchaser's interest in the property established by other law, if
26 any, or any other rights of the purchaser under this subchapter.

27 SECTION 9. (a) The changes in law made by this Act to

1 Sections 5.064 and 5.066, Property Code, apply only to a default
2 that occurs on or after the effective date of this Act. A default
3 that occurred before the effective date of this Act is governed by
4 the law in effect on the date the default occurred, and that law is
5 continued in effect for that purpose.

6 (b) Sections 5.079 and 5.081, Property Code, as amended by
7 this Act, apply to an executory contract entered into before, on, or
8 after the effective date of this Act.

9 (c) The changes in law made by this Act to Sections 5.070 and
10 5.076, Property Code, apply to an executory contract entered into
11 on or after the effective date of this Act. An executory contract
12 entered into before the effective date of this Act is governed by
13 the law in effect on the date the contract was entered into, and
14 that law is continued in effect for that purpose.

15 (d) The changes in law made by this Act to Section 5.077,
16 Property Code, apply to an executory contract that is converted to
17 transfer legal title on or after the effective date of this Act. An
18 executory contract that is converted to transfer legal title before
19 the effective date of this Act is governed by the law in effect on
20 the date the contract was entered into, and that law is continued in
21 effect for that purpose.

22 SECTION 10. This Act takes effect September 1, 2015.

House Bill 311
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
<i>No equivalent provision.</i>	SECTION 1. Section 5.062(e), Property Code, is amended to read as follows: (e) Sections 5.066, 5.067, 5.071, 5.075, <u>5.079</u> , 5.081, and 5.082 do not apply to an executory contract described by Subsection (a)(2).	SECTION 1. Same as Senate version.
SECTION 1. Section 5.064, Property Code, is amended.	SECTION 2. Same as House version <i>except specifies that the contract has not been recorded in the county in which the property is located.</i>	SECTION 2. Same as Senate version.
SECTION 2. Section 5.066(a), Property Code, is amended.	SECTION 3. Same as House version.	SECTION 3. Same as House version.
<i>No equivalent provision.</i>	SECTION 4. Section 5.070, Property Code, is amended by adding Subsection (d) to read as follows: <u>(d) If the executory contract is recorded, the seller is not required to continue insuring the property.</u>	SECTION 4. Same as Senate version.
<i>No equivalent provision.</i>	SECTION 5. The heading to Section 5.072, Property Code, is amended.	Same as House version.
<i>No equivalent provision.</i>	SECTION 6. Section 5.072, Property Code, is amended by amending Subsection (a) and adding Subsection (g). [FA1(1)]	Same as House version.
SECTION 3. Section 5.076, Property Code, is amended by adding Subsection (e).	SECTION 7. Same as House version <i>except changes the cap on the damages from the greater of the value of the property or the amount paid under the contract to \$500 for each calendar year of noncompliance and does not include the authorization for an action to recover damages to be brought as an action for declaratory judgment under the Uniform Declaratory Judgments Act.</i>	SECTION 5. Same as Senate version.

House Bill 311
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
SECTION 4. Subchapter D, Chapter 5, Property Code, is amended by adding Section 5.0765.	<i>No equivalent provision.</i>	Same as Senate version.
<i>No equivalent provision.</i>	SECTION 8. Section 5.077, Property Code, is amended by adding Subsection (e) to read as follows: <u>(e) The requirements of this section continue to apply after a purchaser obtains title to the property by conversion or any other process.</u>	SECTION 6. Same as Senate version.
<i>No equivalent provision.</i>	SECTION 9. Section 5.079(a), Property Code, is amended to read as follows: (a) <u>A recorded executory contract shall be the same as a deed with a vendor's lien. The vendor's lien is for the amount of the unpaid contract price, less any lawful deductions, and may be enforced by foreclosure sale under Section 5.066 or by judicial foreclosure. A general warranty is implied unless otherwise limited by the recorded executory contract. If an executory contract has not been recorded or converted under Section 5.081, the [The] seller shall transfer recorded, legal title of the property covered by the executory contract to the purchaser not later than the 30th day after the date the seller receives the purchaser's final payment due under the contract.</u>	SECTION 7. Same as Senate version.
SECTION 5. Section 5.081, Property Code, is amended by amending Subsection (a) and adding Subsection (h).	SECTION 10. Same as House version <i>except does not specify the purchaser's interest in the property established by other law, for purposes of the prohibition against specified statutory provisions amended by the bill from being construed to limit such interest, as equitable interest.</i>	SECTION 8. Same as Senate version.
SECTION 6. Section 5.066(g), Property Code, is repealed.	<i>No equivalent provision.</i>	Same as Senate version.

House Bill 311
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (IE)	CONFERENCE
SECTION 7.	SECTION 11.	SECTION 9.
<i>No equivalent provision.</i>	(a) The changes in law made by this Act to Sections 5.064 and 5.066, Property Code, apply only to a default that occurs on or after the effective date of this Act. A default that occurred before the effective date of this Act is governed by the law in effect on the date the default occurred, and that law is continued in effect for that purpose.	(a) Same as Senate version.
<i>No equivalent provision.</i>	(b) Sections 5.072, 5.079, and 5.081, Property Code, as amended by this Act, apply to an executory contract entered into before, on, or after the effective date of this Act.	(b) Same as Senate version <i>except does not make Section 5.072, Property Code, as amended by the bill, applicable to an executory contract entered into before, on, or after the bill's effective date.</i>
The changes in law made by this Act apply to an executory contract entered into on or after the effective date of this Act. An executory contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose.	(c) Same as House version <i>except only applies changes in law made by the bill to Sections 5.070 and 5.076, Property Code.</i>	(c) Same as Senate version.
<i>No equivalent provision.</i>	(d) The changes in law made by this Act to Section 5.077, Property Code, apply to an executory contract that is converted to transfer legal title on or after the effective date of this Act. An executory contract that is converted to transfer legal title before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose.	(d) Same as Senate version.
SECTION 8. This Act takes effect September 1, 2015.	SECTION 12. Same as House version.	SECTION 10. Same as House version.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 29, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB311 by Canales (Relating to an executory contract for the conveyance of real property; providing a civil penalty.), **Conference Committee Report**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would clarify legal proceedings surrounding an executory contract for the sale of real property. It is anticipated that the bill would not significantly increase the number or length of legal proceedings.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

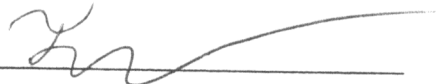
Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 450
Department of Savings and Mortgage Lending

LBB Staff: UP, CL, SD, SJS, MW, ED

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on HB 311 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.


(name)

5/28/15
(date)