

- SUBJECT:** Exempting certain agencies from laws relating to property transactions
- COMMITTEE:** Land and Resource Management — favorable, without amendment
- VOTE:** 5 ayes — Mowery, Orr, Callegari, R. Cook, Pickett
0 nays
4 absent — Zerwas, Y. Davis, Geren, Ritter
- WITNESSES:** For — Jerry Patterson, General Land Office
Against — None
On — Noelle Letteri, General Land Office
- BACKGROUND:** Natural Resources Code, ch. 31 establishes the Texas General Land Office (GLO) and codifies administrative and other procedures relating to the agency’s operation and authority. Ch. 32 charges the School Land Board (SLB) with the management and administration, in conjunction with the Texas land commissioner, of Permanent School Fund land. Ch 161 establishes the Veteran’s Land Board (VLB), along with its administrative procedures and scope of authority.
- Executory contracts are property transactions that allow for the conveyance of real property from the seller to the buyer only when all requirements of the contract have been met, including payment in full for the property. The VLB engages in executory contracts in the form of “contract for deed” agreements that it uses to convey property interests through its veteran’s land program. The SLB and GLO use executory contracts in land sales that involve financing agreements calling for repayment of front-end assistance over time.
- DIGEST:** HB 1853 would add Natural Resources Code, secs. 31.002, 32.113 and 161.237 to exempt the GLO, SLB, and VLB from:
- a statute that would require the agency to provide a notice or disclosure to a buyer of real property; and

- a statute relating to the sale, purchase, or financing of real property by an executory contract, including a contract for deed or other similar sale.

An agency would not be exempted if the statute specifically stated that it applied to that agency. The bill would not affect the applicability of a statute relating to the sale, purchase, or financing of real property to a third party involved in a transaction with one of the included agencies.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS
SAY:**

Executory contracts, which include contracts for deed and rent-to-own agreements, have been the focus of regulation in recent years for their susceptibility to predatory lending practices directed at immigrant, minority, and low-income populations. In 2001 and 2005, the Legislature enacted significant regulatory measures designed to protect buyers who engage in executory contracts.

While some of these statutory amendments specifically exclude transactions involving state agencies, others do not. Current statutory provisions leave unclear the applicability of certain recently added statutes to the VLB, SLB and GLO. HB 1853 would add language in relevant chapters in the Natural Resource Code clarifying that these agencies are exempt from the additional requirements and preventing future amendments regarding executory contracts from being construed otherwise. The bill would not affect current or future statutes that specifically include the agencies.

Currently, the VLB, SLB, and GLO also are exempt from most notification requirements associated with sales transactions not found in the Natural Resources Code. The agencies currently are exempt from providing notice concerning a purchaser's right of rescission under a contract to purchase real property, disclosure of the condition of residential property, obligations regarding public improvement districts, the likelihood of municipal annexation, and other notification requirements set forth in the Property Code. HB 1853 would clarify this exemption and apply it automatically to any future notification requirements that did not specifically name the VLB, SLB, or GLO. This would remove the burden from the agencies to track and request specific

exclusions from all legislation that potentially could affect their operations.

HB 1853 would clarify that statutes outside the Natural Resource Code did not apply to the agencies unless otherwise indicated. The bill would improve the accessibility and comprehensibility of the agencies' governing statutes and reduce confusion regarding limitations placed on executory contracts and notifications. Corresponding chapters in the Natural Resources Code already establish clear guidelines related to executory contracts and notification requirements on transactions. The bill would not expand the agencies' authority to engage in executory contracts. HB 1853 would provide an important clarifying exemption for the VLB, SLB, and GLO that would help minimize unintended consequences of future legislation on the agencies.

OPPONENTS
SAY:

HB 1853 could have the unintended consequence of exempting the GLO, SLB and VLB from certain notifications that current law requires. For instance, the bill would remove the requirement that affected agencies provide notice if a property in the process of being sold was located in a municipal utility district, if it had underground transportation pipelines, or if it was in the city of Houston and thus subject to deed restrictions.

The bill would confer a grant of immunity from executory contract provisions and notification requirements to the state agencies it would protect. To be applicable to the agencies, any future statute would have to name each of them specifically. It would not be sufficient to include language clarifying that a particular statute applied to the state of Texas. This immunity from applicability would place the onus of future adjustments on the Legislature to provide for the specific inclusion of any of the agencies it wished to cover. This would represent a significant shift from the current mode of operation, which assumes that a law regarding executory contracts and notification applies to the VLB, GLO or SLB unless otherwise stated.

If the VLB, GLO, or SLB currently is constrained by statutory changes regarding executory contracts or notification requirements, the Legislature could amend those sections directly to exclude the agencies.

NOTES:

The companion bill, SB 771 by Van de Putte, is pending in the Senate Natural Resources Committee.