

- SUBJECT:** Prohibiting the immediate deeding of real estate back to a seller or creditor
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 8 ayes — Deshotel, Orr, Bohac, Garza, Giddings, Quintanilla, Solomons, Workman  
0 nays  
1 absent — S. Miller
- WITNESSES:** For — Harvella Jones, Texas Homeowner’s Advocate Group, National Homeowners Advocate Group, National HAGS Coalition; Emily Rickers, Texas Low-Income Housing Information Service; Yvonne Silva;  
(*Registered, but did not testify:* Irene Adolph, Coalition for HOA Reform, HOAdata.org; Pat Carlson, Texas Eagle Forum; Robert Doggett, Texas Housing Justice League; Steve Scurlock, Independent Bankers Association of Texas; Sylvia Silva Adams)  
Against — None
- BACKGROUND:** Business and Commerce Code, Title 2 addresses competition and trade practices, including monopolies (ch. 15), trademarks (ch. 16), deceptive trade practices (ch. 17), and consumer credit reporting agencies (ch. 20).  
Property Code, ch. 24 addresses forcible entry and detainer suits and forcible detainer suits, which are included in eviction suits and occur when a person refuses to surrender possession of real property on demand.
- DIGEST:** CSHB 3116 would add a new ch. 21 to Business and Commerce Code, title 2 that would prohibit a person who sold residential real estate or extended credit and took a mortgage interest in residential real estate from requesting or requiring that the purchaser or borrower sign, before or at the time of the sale or extension of credit, a deed transferring the real estate back to the seller or creditor.  
A deed executed in violation of these provisions would be voidable except in certain circumstances where subsequent sales or extensions of credit were performed without notice of the violation. To void a deed executed in

violation of the bill's provisions, the purchaser or borrower would have to act within four years of the deed's execution.

The bill would specify that a seller or creditor who violated the provisions would be liable to the purchaser or borrower for actual damages, limited punitive damages, court costs, and reasonable attorney's fees.

The bill also would amend Property Code, sec. 24.004 to require a court to dismiss a forcible entry and detainer suit or forcible detainer suit if the defendant filed a sworn statement that the basis of the suit was a deed executed in violation of the chapter added by the bill.

The bill would take effect September 1, 2011.

**NOTES:**

The companion bill, SB 1320 by Lucio, passed the Senate by 31-0 on April 28 and was referred to the House Business and Industry Committee on April 29.