

BILL ANALYSIS

Senate Research Center

S.B. 1643
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Economic Development
4/12/1999
As Filed

DIGEST

Currently, many purchases of manufactured homes do not contain similar protections provided to purchases of traditional housing. The seller of a manufactured home, for example, is not prohibited from accepting a deposit if the consumer is not provided with a written receipt. S.B. 1643 would require certain conditions of a deposit on the purchase of a manufactured home and provide penalties for a violation of provisions of this bill.

PURPOSE

As proposed, S.B. 1643 requires certain conditions of a deposit on the purchase of a manufactured home and provides penalties for a violation.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 16, Title 83, V.T.C.S., by adding Article 5221g, as follows:

Art. 5221g. MANUFACTURED HOME DEPOSITS

Sec. 1. DEFINITIONS. Defines “actual damages,” “consumer,” “deposit,” “manufactured home,” “seller,” and “total purchase price.”

Sec. 2. RECEIPT REQUIRED. Prohibits a seller from accepting a deposit for a consumer for a manufactured home unless the seller provides the consumer with a receipt at the time that the consumer tenders the deposit. Sets forth format and information required for the receipt. Authorizes the receipt to be handwritten and to be part of a form buyer’s order. Requires a seller to keep a copy of each document signed by or presented to the consumer for at least two years. Requires the seller to provide a consumer with a copy of each document that the seller is required to retain, upon the request of the consumer. Authorizes the seller to impose a reasonable charge not to exceed 25 cents per page.

Sec. 3. PROHIBITED PRACTICES. Prohibits certain sellers from demanding or charging a total purchase price for the manufactured home that is greater than the total purchase price shown on the receipt for the deposit, except under certain conditions. Prohibits the seller from demanding or charging a down payment or interest in excess of the down payment or interest reflected on the buyer’s order or the receipt for the deposit, except under certain circumstances. Prohibits a seller from requiring an increase in down payment or interest that exceeds the increase required by a third-party lender.

Sec. 4. EXCEPTION. Provides the state or a political subdivision of the state is not a seller.

Sec. 5. DECEPTIVE TRADE PRACTICES. Provides that a violation of this article is a deceptive trade practice under Chapter 17E, Business and Commerce Code. Makes the remedies under Chapter 17E available in addition to the remedies under this article, but not for a consumer to recover actual or statutory damages under both Chapter 17E and this article.

Sec. 6. CIVIL LIABILITY. Authorizes a consumer to bring an action against a seller who forges

the consumer's signature on a receipt required under Section 2(a) of this article and to be awarded certain damages and costs. Authorizes a consumer to bring an action against a seller who fails to retain the documents required to be retained under Section 2(c) or fails to produce copies of the documents, and may be awarded certain damages and costs. Authorizes a judge in the action to compel the seller to provide the consumer with copies of the documents. Authorizes a consumer to bring an action against a seller who charges a consumer an excessive purchase price or interest rate in excess of that permitted under Section 3 and to be awarded certain damages. Authorizes a consumer to bring an action regarding the sale of a manufactured home to another person without consent of the person who paid a deposit. Authorizes a consumer who prevails under this subsection to compel a specific performance of the sale or recover certain damages. Authorizes the prevailing consumer to recover certain other damages and costs. Makes a seller not liable under Subsection (e) of this section if the seller's failure to sell the home to the consumer was solely the fault of the consumer.

Sec. 7. CRIMINAL PENALTY. Provides that a seller commits an offense if the seller fails to furnish a consumer with a receipt required by Section 2(a) of this article for the consumer's deposit. Provides that the offense is a Class C misdemeanor.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.