

## **BILL ANALYSIS**

Senate Research Center  
79R9322 KCR-D

S.B. 1095  
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Jurisprudence  
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### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Executory contracts, or "contracts for deed," are financing arrangements whereby ownership remains with the seller until the total purchase price is paid. Although buyers make regular monthly payments, as in a traditional mortgage arrangement, sellers retain title to property and only provide deeds to the land sold after all payments are made. Buyers do not have rights as homeowners, cannot earn equity, and do not have the rights of lessees.

Since contracts for deed occur outside the traditional land sale structure, they have historically led to the proliferation of substandard housing (e.g., border colonias) and have taken advantage of low-income individuals.

As proposed, S.B. 1095 halts this home sale practice while protecting buyers with existing contracts for deed. Specifically, S.B. 1095 prohibits contracts for deed to be used for residential property of less than one acre while excluding all contracts for deed property sales and those for business purposes. S.B. 1095 requires sellers to notify buyers of their right to convert contracts for deed into traditional mortgages.

### **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 Section 5.062(a), Property Code, to provide that this subchapter applies only to a transaction involving an executory contract for conveyance of more than one acre of certain real property, rather than for conveyance of certain real property. Deletes the provision that a lot measuring one acre or less is presumed to be residential property.

SECTION 2. Amends Chapter 5, Property Code, by adding Subchapter E, as follows:

#### **SUBCHAPTER E. EXECUTORY CONTRACT FOR CONVEYANCE PROHIBITED FOR CERTAIN TRANSACTIONS**

Sec. 5.101. **APPLICABILITY OF SUBCHAPTER.** Provides that this subchapter applies only to the sale or purchase of one acre or less of real property that is intended to be used as the purchaser's residence or as the residence of certain persons related to the purchaser.

Sec. 5.102. **PROHIBITED USE OF EXECUTORY CONTRACT FOR CONVEYANCE; LIQUIDATED DAMAGES.** (a) Prohibits a person from selling or purchasing real property described by Section 5.01 under an executory contract for conveyance, and sets forth certain exceptions.

(b) Provides that a person that sells real property in violation of this section is liable to a purchaser under an executory contract for conveyance for liquidated damages in the amount of \$2,000 and reasonable attorney's fees.

Sec. 5.103. **NOTICE OF RIGHT TO CONVERT CONTRACT.** (a) Requires the seller, not later than the first day after the date a seller and purchaser enter into an executory

contract that is prohibited by Section 5.102, to notify the purchaser in writing of the purchaser's right to convert the purchaser's interest in property under the executory contract in accordance with Section 5.104.

(b) Sets forth the format and content requirements for the notice sent under Subsection (a).

(c) Sets forth the liquidated damages for which a seller who violates this section is liable.

Sec. 5.104. RIGHT TO CONVERT CONTRACT. (a) Entitles a purchaser under an executory contract prohibited by this subchapter, in addition to collecting liquidated damages under Section 5.102(b), to convert the purchaser's interest in property under the executory contract in accordance with this section.

(b) Sets forth the procedure and required actions of the purchaser and seller for converting the contract.

(c) Sets forth the required actions of the seller once the purchaser has fulfilled his responsibilities for the conversion of the contract.

(d) Provides that a seller who violates this section is liable to the purchaser in a certain manner and for a certain amount. Provides that this subsection does not limit or affect any other rights or remedies a purchaser has under other law.

(e) Provides that the executory contract, on the last date that all of the conveyances described by Subsection (b) are executed, is considered completed and has no further effect.

(f) Provides that the appropriate use of forms published by the Texas Real Estate Commission for transactions described by this section constitutes compliance with this section.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2005.