

## **BILL ANALYSIS**

Senate Research Center  
82R10243 JE-D

S.B. 1320  
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Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Over the years, the Texas Legislature has sought to remedy the existence of substandard housing and prevent additional substandard housing from being created by addressing the financial mechanism that was predominantly used to create the colonias. Due to the dire financial circumstances of many low-income people who could not qualify for traditional financing mechanisms, unscrupulous developers and land sellers preyed upon their need for affordable housing by using contracts for deeds in their land or home transactions.

Because of the consumer protections that the state has enacted in contract for deed land or home sales, many unscrupulous users of contracts-for-deed developed a new scheme to take advantage of home and land buyers. Using traditional mortgage financing, these sellers provide title to the property at closing, however they now require buyers to execute a "deed-in-lieu of foreclosure" at the closing table. This document is usually not explained to would-be buyers since, in essence, it gives title back to the seller or lender the same day the property is purchased. Additionally, this makes Texans sign-away the foreclosure rights that the legislature has provided to them over the years.

In practice, the seller-financer holds the deed-in-lieu until they decide that a buyer has defaulted. In the event of a dispute, the seller-financer has the upper hand and can simply record the deed, file an eviction case, and bypass all the foreclosure procedure and consumer homeowner protections provided by law.

S.B. 1320 would make the requirement of having to execute a "deed-in-lieu of foreclosure" at closing an unlawful practice by including it among the different deceptive practices included in the Deceptive Trade Practices Act.

As proposed, S.B. 1320 amends current law relating to deceptive trade practices in connection with executing and filing deeds in lieu of foreclosure.

### **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 17.46(b), Business & Commerce Code, to redefine the term "false, misleading, or deceptive acts or practices" to include, but not be limited to, certain acts, including requesting or requiring, on or before the date on which residential real property that is to secure a debtor's home loan, as defined by Section 343.001 (Definitions), Finance Code, under a deed of trust is conveyed to the debtor, that the debtor execute a deed that conveys or purports to convey the property to the holder of the loan in satisfaction of that debt, or filing a deed executed in violation of Subdivision (28) (relating to requiring a debtor to execute a deed) or otherwise claiming title to the property under the deed.

SECTION 2. Effective date: upon passage or September 1, 2011.