Chapter 1242

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S.B. No. 1320

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1	AN ACT
2	relating to the execution of written instruments relating to
3	residential real estate transactions and deeds conveying
4	residential real estate in connection with certain transactions
5	involving residential real estate; providing a civil penalty.
6	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
7	SECTION 1. Title 2, Business & Commerce Code, is amended by
8	adding Chapter 21 to read as follows:
9	CHAPTER 21. EXECUTION OF DEEDS IN CERTAIN TRANSACTIONS INVOLVING
10	RESIDENTIAL REAL ESTATE
11	Sec. 21.001. DEFINITION. In this chapter, "residential
12	real estate" means real property on which a dwelling designed for
13	occupancy for one to four families is constructed or intended to be
14	constructed.
15	Sec. 21.002. PROHIBITION OF EXECUTION OF DEEDS CONVEYING
16	RESIDENTIAL REAL ESTATE IN CERTAIN TRANSACTIONS. (a) A seller of
17	residential real estate or a person who makes an extension of credit
18	and takes a security interest or mortgage against residential real
19	estate may not, before or at the time of the conveyance of the
20	residential real estate to the purchaser or the extension of credit
21	to the borrower, request or require the purchaser or borrower to
22	execute and deliver to the seller or person making the extension of
23	credit a deed conveying the residential real estate to the seller or
24	person making the extension of credit.

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S.B. No. 1320 (b) A deed executed in violation of this section is voidable 1 2 unless a subsequent purchaser of the residential real estate, for 3 valuable consideration, obtains an interest in the property after 4 the deed was recorded without notice of the violation, including 5 notice provided by actual possession of the property by the grantor of the deed. The residential real estate continues to be subject to 6 7 the security interest of a creditor who, without notice of the 8 violation, granted an extension of credit to a borrower based on the 9 deed executed in violation of this section. 10 (c) A purchaser or borrower must bring an action to void a 11 deed executed in violation of this section not later than the fourth 12 anniversary of the date the deed was recorded. 13 (d) A purchaser or borrower who is a prevailing party in an 14 action to void a deed under this section may recover reasonable and 15 necessary attorney's fees. 16 Sec. 21.003. ACTION BY ATTORNEY GENERAL. (a) The attorney 17 general may bring an action on behalf of the state: 18 (1) for injunctive relief to require compliance with 19 this chapter; 20 (2) to recover a civil penalty of \$500 for each 21 violation of this chapter; or 22 (3) for both injunctive relief and to recover the 23 civil penalty. 24 (b) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil 25 penalty, or both, under this section, including court costs and 26 reasonable attorney's fees. 27

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1	(c) The court may make such additional orders or judgments
2	as are necessary to return to the purchaser a deed conveying
3	residential real estate that the court finds was acquired by means
	of any violation of this chapter.

5 (d) In bringing or participating in an action under this 6 chapter, the attorney general acts in the name of the state and does 7 not establish an attorney-client relationship with another person, 8 including a person to whom the attorney general requests that the 9 court award relief.

(e) An action by the attorney general must be brought not
 later than the fourth anniversary of the date the deed was recorded.
 SECTION 2. Subsection (a), Section 121.005, Civil Practice
 and Remedies Code, is amended to read as follows:

14 (a) An officer may not take the acknowledgment of a written 15 instrument unless the officer knows or has satisfactory evidence 16 that the acknowledging person is the person who executed the 17 instrument and is described in it. An officer may accept, as 18 satisfactory evidence of the identity of an acknowledging person, 19 only:

20 (1) the oath of a credible witness personally known to
21 the officer; [ox]

(2) a current identification card or other document
issued by the federal government or any state government that
contains the photograph and signature of the acknowledging person;
or

26 <u>(3) with respect to a deed or other instrument</u> 27 <u>relating to a residential real estate transaction, a current</u>

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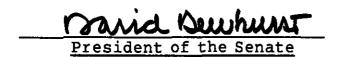
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1 passport issued by a foreign country. 2 SECTION 3. Section 24.004, Property Code, is amended to read as follows: 3 4 Sec. 24.004. JURISDICTION; DISMISSAL. (a) Except as 5 provided by Subsection (b), a [A] justice court in the precinct in which the real property is located has jurisdiction in eviction 6 7 suits. Eviction suits include forcible entry and detainer and forcible detainer suits. 8 9 (b) A justice court does not have jurisdiction in a forcible 10 entry and detainer or forcible detainer suit and shall dismiss the 11 suit if the defendant files a sworn statement alleging the suit is 12 based on a deed executed in violation of Chapter 21, Business & 13 Commerce Code. 14 SECTION 4. This Act takes effect September 1, 2011.

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Speaker of the House

<u>I hereby certify</u> that S.B. Nov 1320 passed the Senate on April 28, 2011, by the following vote: Yeas 31, Nays 0; May 24, 2011, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 27, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0._____

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<u>I hereby certify</u> that S.B. No. 1320 passed the House, with amendment, on May 20, 2011, by the following vote: Yeas 147, Nays 2, one present not voting; May 27, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 112, Nays 15, two present not voting.

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Approved:

FILED IN THE OFI Secretary of State

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