

BUSINESS AND COMMERCE CODE

TITLE 2. COMPETITION AND TRADE PRACTICES

CHAPTER 21A. EXECUTION OF DEEDS IN CERTAIN TRANSACTIONS INVOLVING
RESIDENTIAL REAL ESTATE

Sec. 21A.001. DEFINITION. In this chapter, "residential real estate" means real property on which a dwelling designed for occupancy for one to four families is constructed or intended to be constructed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1242 (S.B. 1320), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 21 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(1), eff. September 1, 2013.

Sec. 21A.002. PROHIBITION OF EXECUTION OF DEEDS CONVEYING RESIDENTIAL REAL ESTATE IN CERTAIN TRANSACTIONS. (a) A seller of residential real estate or a person who makes an extension of credit and takes a security interest or mortgage against residential real estate may not, before or at the time of the conveyance of the residential real estate to the purchaser or the extension of credit to the borrower, request or require the purchaser or borrower to execute and deliver to the seller or person making the extension of credit a deed conveying the residential real estate to the seller or person making the extension of credit.

(b) A deed executed in violation of this section is voidable unless a subsequent purchaser of the residential real estate, for valuable consideration, obtains an interest in the property after the deed was recorded without notice of the violation, including notice provided by actual possession of the property by the grantor of the deed. The residential real estate continues to be subject to the security interest of a creditor who, without notice of the violation, granted an extension of credit to a borrower based on the deed executed in violation of this section.

(c) A purchaser or borrower must bring an action to void a deed executed in violation of this section not later than the fourth anniversary of the date the deed was recorded.

(d) A purchaser or borrower who is a prevailing party in an action to void a deed under this section may recover reasonable and necessary attorney's fees.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1242 (S.B. 1320), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 21 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(1), eff. September 1, 2013.

Sec. 21A.003. ACTION BY ATTORNEY GENERAL. (a) The attorney general may bring an action on behalf of the state:

(1) for injunctive relief to require compliance with this chapter;

(2) to recover a civil penalty of \$500 for each violation of this chapter; or

(3) for both injunctive relief and to recover the civil penalty.

(b) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, or both, under this section, including court costs and reasonable attorney's fees.

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

(d) In bringing or participating in an action under this chapter, the attorney general acts in the name of the state and does not establish an attorney-client relationship with another person, including a person to whom the attorney general requests that the 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. Added by Acts 2011, 82nd Leg., R.S., Ch. 1242 (S.B. 1320), Sec. 1, eff. September 1, 2011.

Redesignated from Business and Commerce Code, Chapter 21 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(1), eff. September 1, 2013.