

BUSINESS AND COMMERCE CODE

TITLE 3. INSOLVENCY, FRAUDULENT TRANSFERS, AND FRAUD

CHAPTER 27. FRAUD

Sec. 27.01. FRAUD IN REAL ESTATE AND STOCK TRANSACTIONS.

(a) Fraud in a transaction involving real estate or stock in a corporation or joint stock company consists of a

(1) false representation of a past or existing material fact, when the false representation is

(A) made to a person for the purpose of inducing that person to enter into a contract; and

(B) relied on by that person in entering into that contract; or

(2) false promise to do an act, when the false promise is

(A) material;

(B) made with the intention of not fulfilling it;

(C) made to a person for the purpose of inducing that person to enter into a contract; and

(D) relied on by that person in entering into that contract.

(b) A person who makes a false representation or false promise commits the fraud described in Subsection (a) of this section and is liable to the person defrauded for actual damages.

(c) A person who makes a false representation or false promise with actual awareness of the falsity thereof commits the fraud described in Subsection (a) of this section and is liable to the person defrauded for exemplary damages. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness.

(d) A person who (1) has actual awareness of the falsity of a representation or promise made by another person and (2) fails to disclose the falsity of the representation or promise to the person defrauded, and (3) benefits from the false representation or promise commits the fraud described in Subsection (a) of this section and is liable to the person defrauded for exemplary damages. Actual awareness may be inferred where objective

manifestations indicate that a person acted with actual awareness.

(e) Any person who violates the provisions of this section shall be liable to the person defrauded for reasonable and necessary attorney's fees, expert witness fees, costs for copies of depositions, and costs of court.

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, Sec. 1. Amended by Acts 1983, 68th Leg., p. 5208, ch. 949, Sec. 1, 2, eff. Sept. 1, 1983.

Sec. 27.015. DECEPTIVE TRADE PRACTICE; PUBLIC REMEDY.

(a) In this section, "consumer protection division" has the meaning assigned by Section 17.45.

(b) A violation of Section 27.01 that relates to the transfer of title to real estate is a false, misleading, or deceptive act or practice as defined by Section 17.46(b), and any public remedy under Subchapter E, Chapter 17, is available for a violation of that section.

(c) It is the duty of city attorneys to lend the consumer protection division any reasonable assistance requested in the commencement and prosecution of actions under this section.

(d) To the same extent and in the same manner a district or county attorney may institute or prosecute an action under this section, a city attorney may institute or prosecute an action under this section.

(e) If a district, county, or city attorney brings an action under this section, 75 percent of any penalty recovered shall be deposited in the general fund of the county or municipality in which the violation occurred.

(f) This section does not apply to an action to recover damages that is subject to Chapter 27, Property Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1083 (H.B. 2590), Sec. 1, eff. September 1, 2015.

Sec. 27.02. GOODS OR SERVICES PAID FOR BY INSURANCE PROCEEDS: PAYMENT OF DEDUCTIBLE REQUIRED. (a) In this section, "property insurance policy" has the meaning assigned by Section 707.001, Insurance Code.

(b) A contract to provide a good or service that is reasonably expected to be paid wholly or partly from the proceeds of a claim under a property insurance policy and that has a contract price of \$1,000 or more must contain the following notice in at least 12-point boldfaced type: "Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas law for a seller of goods or services who reasonably expects to be paid wholly or partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible."

(c) A person who sells goods or services commits an offense if the person:

(1) advertises or promises to provide a good or service to an insured under a property insurance policy in a transaction in which:

(A) the good or service will be paid for by the insured from the proceeds of a property insurance claim; and

(B) the person selling the good or service will, without the insurer's consent:

(i) pay, waive, absorb, or otherwise decline to charge or collect the amount of the insured's deductible;

(ii) provide a rebate or credit in connection with the sale of the good or service that will offset all or part of the amount paid by the insured as a deductible; or

(iii) in any other manner assist the insured in avoiding monetary payment of the required insurance deductible; or

(2) provides a good or service to an insured under a property insurance policy knowing that the insured will pay for the good or service with the proceeds of a claim under the policy and, without the insurer's consent:

(A) pays, waives, absorbs, or otherwise declines to charge or collect the amount of the insured's deductible;

(B) provides a rebate or credit in connection

with the sale of the good or service that offsets all or part of the amount paid by the insured as a deductible; or

(C) in any other manner assists the insured in avoiding monetary payment of the required insurance deductible.

(d) An offense under this section is a Class B misdemeanor. Added by Acts 1989, 71st Leg., ch. 898, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1099 (H.B. [2102](#)), Sec. 2, eff. September 1, 2019.