

HB 2855 A STAFF MEASURE SUMMARY

Carrier: Rep. Kennemer

House Committee On Business and Labor

Action Date: 03/27/17

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 9-0-0-0

Yeas: 9 - Barreto, Bynum, Doherty, Evans, Fahey, Hack, Heard, Holvey, Kennemer

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

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WHAT THE MEASURE DOES:

Creates process for purchaser of real property to obtain deed of conveyance without taking legal action when contract has been fulfilled.

ISSUES DISCUSSED:

- Benefits of land sale contracts to buyer and seller
- Specific steps in proposed process to obtain deed

EFFECT OF AMENDMENT:

Provides that claim of title or interest through the seller recorded prior to recording of contract for transfer or conveyance maintains its priority. Clarifies that failure to provide notice to any particular junior interest holder does not affect validity of effects of fulfillment of contract as to persons so notified.

BACKGROUND:

When parties enter into a contract for the transfer or conveyance of an interest in real property, the seller holds the title until terms of the contract have been fulfilled, at which point the seller provides the buyer with a deed of conveyance. If the contract includes a forfeiture remedy, the current statutes provide a process for the seller to enforce the forfeiture remedy. However, if the terms of the contract are fulfilled and the seller fails or refuses to provide the purchaser with a deed of conveyance, the purchaser must file suit to obtain the deed of conveyance.

House Bill 2855-A establishes a nonjudicial process by which a purchaser can obtain a deed of conveyance after terms of the contract are fulfilled. The process requires that the purchaser provide notice to the seller, occupants of the property, and anyone holding title or interest. The purchaser must record with the county in which the property is located a notice of intent to enforce the requirement to provide a deed of conveyance. The seller can record an objection, at which point the purchaser may file a suit to challenge the objection and have the contract enforced. After providing the notice and county recording, if the seller does not provide the deed of conveyance, the purchaser must publish a notice in the newspaper of general circulation that the purchaser intends to enforce the contract. If no objection was recorded and the purchaser satisfies the notice and recording requirements, the purchaser may record a declaration of fulfillment with the county. The declaration of fulfillment has the effect of ending any further rights in the contract or the property that were claimed by the seller and eliminating any right to redeem the property. A claim of title or interest through the seller that was recorded prior to the recording of the contract for transfer or conveyance maintains its priority and is not extinguished by the declaration of fulfillment.