

HB 2855 A STAFF MEASURE SUMMARY
Senate Committee On Business and Transportation

Carrier: Sen. Monroe

Action Date: 05/08/17
Action: Do pass the A-Eng bill.
Vote: 5-0-0-0
Yeas: 5 - Beyer, Girod, Monroe, Riley, Thomsen
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
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WHAT THE MEASURE DOES:

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

ISSUES DISCUSSED:

- Situations under which buyer can fulfill contract yet not receive title

EFFECT OF AMENDMENT:

No amendment.

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.