

89TH TEXAS LEGISLATIVE SESSION

MEMORANDUM OF CONTRACT

HB 4063 (REP. ORDAZ)



TLTA seeks the introduction and passage of a bill addressing abuses related to Memorandum of Contract notices.

Problem

Increasingly, title agents are noticing the existence of Memorandum of Contracts on residential properties. These notices are creating complications at the closing table and opportunities for abuse.

Solution

The statute should be amended to include the following provisions:

- If a person files a Memorandum of Contract that is not signed by the owner of real property, that person must provide a copy of the Memorandum to the owner.
- Subsequently, the owner may file a contradicting affidavit, notifying the filing party.
- If the person who filed the Memorandum does not dispute the contradicting affidavit within 45 days, the contract identified in the Memorandum of Contract cannot be enforced against a purchaser, allowing the transaction to proceed.

Background

Memorandum of Contracts are used to put subsequent purchasers on constructive notice of the buyer's equitable title and ensure that the Seller does not attempt to sell to another buyer. However, the Sellers are often unaware that this notice has been filed, and the issues surrounding the contract may be stale. For the sake of clear title, these notices must be addressed.

It has been reported that often the filer of the notice will extract payment unrelated to the terms of the contract to "simply go away." In these instances, the Memorandum of Contract perpetuates a form of "greenmail", taking advantage of the duress the Seller faces in a property sale transaction.

TLTA – Protecting Texans' Property Rights

Texas Land Title Association

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