PROPERTY CODE

TITLE 5. EXEMPT PROPERTY AND LIENS

SUBTITLE B. LIENS

CHAPTER 65. AUTHORITY OF CO-OWNER TO ENCUMBER RESIDENTIAL PROPERTY

Sec. 65.001. APPLICATION OF CHAPTER. This chapter applies only to residential property:

(1) that has residential improvements primarily designed for not more than four families;

(2) that is not more than 10 acres of land;

(3) that is owned by more than one person; and

(4) for which at least one co-owner has received a residence homestead exemption under Section 11.13, Tax Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 918 (S.B. 1368), Sec. 1, eff. June 17, 2011.

Redesignated from Property Code, Chapter 64 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(39), eff. September 1, 2013.

Sec. 65.0011. APPLICATION TO INSTITUTIONS OF HIGHER EDUCATION. This chapter does not apply to residential property for which an institution of higher education is a co-owner.

Redesignated from Property Code, Chapter 64 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(39), eff. September 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1366 (S.B. 1604), Sec. 2, eff. June 14, 2013.

Sec. 65.002. CONDITIONS FOR AUTHORITY TO ACT AS AGENT FOR CO-OWNER. A co-owner of residential property may act in the name of and on behalf of another co-owner, whether known or unknown, as the co-owner's statutory agent and attorney-in-fact for the purposes described by Section 65.004 if:

(1) the co-owner has occupied the property for more than five years;

(2) the co-owner has a residence homestead exemption for the property under Section 11.13, Tax Code;

(3) for the five years preceding the date the documents required by Section 65.003 are filed, the occupying co-owner has paid all assessed ad valorem taxes without delinquency and without contribution from the other co-owner; and

(4) the occupying co-owner files the documents required by Section 65.003.

Added by Acts 2011, 82nd Leg., R.S., Ch. 918 (S.B. 1368), Sec. 1, eff. June 17, 2011.

Redesignated from Property Code, Chapter 64 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(39), eff. September 1, 2013.

Redesignated and amended from Property Code, Section 64.002 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(29), eff. September 1, 2013.

Sec. 65.003. REQUIRED DOCUMENTATION. The occupying co-owner may establish the authority to act as an agent and attorney-in-fact for another co-owner by filing in the office of the county clerk of the county in which the real property is located:

(1) an affidavit of the occupying co-owner affirming the facts described by Sections 65.002(1)-(3);

(2) the affidavits of two additional affiants personally familiar with the co-owner's occupancy of the real property corroborating the occupancy during the preceding five years; and

(3) a certificate of the tax assessor-collector for the county in which the real property is located affirming that the co-owner has paid all taxes assessed against the real property for the preceding five years without delinquency.

Added by Acts 2011, 82nd Leg., R.S., Ch. 918 (S.B. 1368), Sec. 1, eff. June 17, 2011.

Redesignated from Property Code, Chapter 64 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(39), eff. September 1, 2013.

Redesignated and amended from Property Code, Section 64.003 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(30), eff.

September 1, 2013.

Sec. 65.004. SCOPE OF AUTHORITY. (a) The authority of the occupying co-owner to act as an agent and attorney-in-fact is limited to the authority to enter into a contract giving rise to a mechanic's and materialman's lien and to execute a deed of trust for the purpose of preserving or improving the residential property. The occupying co-owner is the sole obligor of the debt incurred under the contract and secured by the deed of trust.

(b) A lien that arises under a contract entered into by an occupying co-owner under this section is not subject to repudiation or disaffirmance by another co-owner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 918 (S.B. 1368), Sec. 1, eff. June 17, 2011.

Redesignated from Property Code, Chapter 64 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(39), eff. September 1, 2013.