

## **BILL ANALYSIS**

C.S.H.B. 2590  
By: Johnson  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties have observed instances of individuals using false deed documents to fraudulently sell properties they do not own to unsuspecting buyers. Some of these buyers spend money on renovations and mortgage payments for these homes, only to discover that they are not the legal owners. While victims of real estate fraud may file a suit under statutory provisions relating to real estate fraud, it has been noted that the victims are often deterred from doing so because of the time and money associated with such a suit. C.S.H.B. 2590 seeks to help protect the citizens of Texas from fraudulent real estate practices.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2590 amends the Business & Commerce Code to establish that a violation of statutory provisions governing fraud committed in a transaction involving real estate or stock is a false, misleading, or deceptive act or practice under the Deceptive Trade Practices-Consumer Protection Act and that any public remedy under that act is available for a violation of those statutory provisions. The bill establishes that it is the duty of city attorneys to lend the consumer protection division of the attorney general's office any reasonable assistance requested in the commencement and prosecution of actions under the bill's provisions. The bill authorizes a city attorney to institute or prosecute such an action to the same extent and in the same manner as a district or county attorney is authorized to institute or prosecute such an action. The bill requires 75 percent of any penalty recovered in an action brought by a district, county, or city attorney to be deposited in the general fund of the county or municipality in which the violation occurred.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2590 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 27, Business & Commerce Code, is amended by adding Section 27.015 to read as follows:

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 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 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.

SECTION 2. The changes in law made by this Act apply only to a violation of Section 27.01, Business & Commerce Code, that occurs on or after the effective date of this Act. A violation of Section 27.01, Business & Commerce Code, that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

SECTION 3. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 27, Business & Commerce Code, is amended by adding Section 27.015 to read as follows:

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 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.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.