

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2224
By: Solomons (Shapiro)
State Affairs
5/12/1999
Committee Report (Substituted)

DIGEST

Currently, the purchaser of a home may not be aware that the seller is a member of a property owners' association and is not required to provide the purchaser of the home with notice of the purchaser's required membership in the property owners' association. This bill would require a seller of a residential real property that is subject to membership in a property owners' association to give to the purchaser a written notice that informs the purchaser of the restrictions and obligations associated with a purchase of this kind of home.

PURPOSE

As proposed, C.S.H.B. 2224 requires the provision of disclosure notices for the sale of real property governed by a property owners' association, and requires the filing of dedicatory instruments governing property owners' associations.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 5A, Property Code, by adding Section 5.012, as follows:

Sec. 5.012. NOTICE OF OBLIGATIONS RELATED TO MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION. Requires a seller of residential real property (seller) that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state to give a notice of membership in a property owners' association (notice) to the purchaser of the property (purchaser). Sets forth the required text and format of the notice. Requires the seller to deliver the notice to the purchaser before the date the executory contract binds the purchaser to purchase the property. Authorizes the notice to be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser. Authorizes references to a street address and date in a notice, and the purchaser's signature on the notice, to be omitted if the notice is included as part of the executory contract or other notice. Provides that this section does not apply to certain specified transfers. Authorizes the purchaser to terminate an executory contract for any reason, if an executory contract is entered into without the seller providing the notice, within the earlier of seven days after the date the purchaser receives the notice or the date the transfer occurs as provided by the executory contract. Provides that the purchaser's right to terminate the executory contract under Subsection (d) is the purchaser's exclusive remedy for the seller's failure to provide the required notice.

SECTION 2. Amends Chapter 202, Property Code, by adding Section 202.006, as follows:

Sec. 202.006. PUBLIC RECORDS. Requires a property owners' association to file the dedicatory instrument governing the property owners association in the real property records of each county in which the property to which the dedicatory instrument relates is located.

SECTION 3. Effective date: September 1, 1999, except for Section 5.012, Property Code, which takes effect January 1, 2000 and applies only to an executory contract that is binding on a seller and purchaser on or after that date.

SECTION 4. Requires each property owners' association to present for recording each dedicatory

instrument governing the association that has not been previously recorded in the real property records of the county, not later than January 1, 2000.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 5.012, Property Code, to revise the text of the notice required by this section.

SECTION 2.

Amends Section 202.006, Property Code, to delete proposed Subsection (a) regarding records to be named “Property Owners’ Association Records.”

SECTION 4.

Deletes proposed Subsection (a) requiring the county clerk of each county to establish the “Property Owners’ Association Records” on or before December 1, 1999.