

BILL ANALYSIS

Senate Research Center
81R35417 AJA-D

C.S.H.B. 556
By: Kuempel (Harris)
State Affairs
5/21/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Adverse possession is one of the most unconventional ways of acquiring land in this state. Current law provides the courts discretion in awarding costs and reasonable attorney's fees to the prevailing party in an adverse possession suit. Since courts rarely award attorney's fees in these cases, innocent land owners are forced to bear the cost of litigation which can sometimes reach hundreds of thousands of dollars. This bill provides a property owner in Texas some fairness and relief when forced to fight for something to which they already own title.

C.S.H.B. 556 amends current law relating to payment of attorney's fees in certain actions to recover possession of real property.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 16.034(a), Civil Practice and Remedies Code, as follows:

(a) Provides that in a suit for the possession of real property between a person claiming under record title to the property and one claiming by adverse possession, if the prevailing party recovers possession of the property from a person unlawfully in actual possession, the court:

(1) is required, rather than authorized, to award costs and reasonable attorney's fees to the prevailing party if the court finds that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith; and

(2) is authorized to award costs and reasonable attorney's fees to the prevailing party in the absence of a finding described by Subdivision (1).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.