

BILL ANALYSIS

Senate Research Center

S.B. 2481
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Intergovernmental Relations
4/8/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2007 legislation was passed in response to a developer north of Travis County who has instituted a program whereby he would receive a fee (like a reversionary interest) each time a lot or residence in the development transferred title. In other words, he had provided a perpetual income stream to himself by virtue of a deed restriction. The legislation prohibited such a practice and provided three exceptions: fees collected by property owners' associations, fees paid to a 501(c)(3) corporation, and fees paid to a governmental entity.

Weston Lakes is a golf course development in far west Fort Bend County, near the City of Fulshear, whose deed restrictions from the outset provided for mandatory membership in the golf course country club by property owners. Weston Lakes residential development has a property owners' association in effect, but the golf course country club is a separate, private venture and is not governed, operated, or controlled by the property owners' association.

Accordingly, the membership fee and transfer fee for the golf course country club does not fall under the purview of the property owners' association.

The passage of H.B. 2403 during the 80th Legislature, Regular Session, 2007, could have the effect of prohibiting the collection of the membership and transfer fee. H.B. 2403 voids deed restrictions that require fees connect to future transfers of property and provides three exceptions. However, because Weston Lakes golf course is not managed by the property owners' association and the fee is not payable to the property owners' association, it does not fit in the wording of the exception although it fits the intent of the exception.

As proposed, S.B. 2481 adds a fourth exception to the statutory prohibition of fees for future transfers of real property to exempt an entity that operates a golf course country club where lot owners are required to be members of the club.

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 Subchapter A, Chapter 5, Property Code, by adding Section (4a) to Section 5.017(c), as follows:

Sec. 5.017. FEE FOR FUTURE CONVEYANCE OF RESIDENTIAL REAL PROPERTY AND RELATED LIEN PROHIBITED. (a) Makes no change to this subsection.

(b) Makes no change to this subsection.

(c) Provides that this section does not apply to a deed restriction or other covenant running with the land that requires a fee associated with the conveyance of property in a subdivision that is payable to an entity other than a property owners' association that operates a golf course and country club in or adjacent to one or more subdivisions where the owners of real property in such subdivisions

are required by deed restriction to obtain and maintain a membership in such club.
Makes a nonsubstantive change.

SECTION 2. Effective date: upon passage or September 1, 2009.