

BILL ANALYSIS

Senate Research Center
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S.J.R. 19
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law protects a homestead in Texas from foreclosure except to collect on certain debts, including debts owed on the original loan or for taxes on the home, on a refinanced lien, or on a materialman's lien. In its decision in *Inwood North Homeowners' Association, Inc. v. Harris*, 736 S.W.2d 632 (Tex. 1987), the Supreme Court of Texas held that homestead law does not protect an association's homeowners against foreclosure for failure to pay assessments.

S.J.R. 19 proposes a constitutional amendment to establish that an obligation to pay property owners' association fees for maintenance and ownership of common facilities and services or to pay other fees imposed by the association is a debt for which an encumbrance may be fixed upon a homestead property. The constitutional amendment protects a homestead from forced sale for the payment of such a debt.

As proposed, S.J.R. 19 proposes a constitutional amendment permitting an encumbrance to be fixed on homestead property for an obligation to pay certain property owners' association fees and fines without permitting the forced sale of the homestead.

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 50, Article XVI, Texas Constitution, by adding Subsection (w), as follows:

(w) Provides that an obligation to pay property owners' association fees for maintenance and ownership of common facilities and services or to pay other fees or fines imposed by a property owners' association is a debt for which an encumbrance may be fixed on homestead property. Provides, however, that the homestead is protected from forced sale for the payment of a debt described by this subsection.

SECTION 2. Requires that this proposed constitutional amendment be submitted to the voters at an election to be held November 8, 2011. Sets forth the required language of the ballot.