

## **BILL ANALYSIS**

Senate Research Center  
79S10150 AJA-F

S.B. 23  
By: Duncan  
State Affairs  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Currently, the Residential Construction Liability Act, Chapter 27 (Residential Construction Liability), Property Code, provides a remedy for failure to include a statutory notice in certain residential construction transactions. This remedy is a civil penalty of \$500 and is in addition to any other remedy provided by the Act.

S.B. 23 clarifies that an action seeking recovery of the civil penalty may not be brought on its own. The penalty may only be recovered in conjunction with an action to recover damages resulting from a construction defect. Additionally, an action to recover the civil penalty may not be certified as a class action.

### **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 27.007, Property Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Authorizes a claimant to recover from the contractor a civil penalty of \$500 in addition to any other remedy provided by this chapter under certain circumstances. Deletes existing text making this authorization applicable only if a contract does not contain the notice required by this section.

(c) Prohibits a court from certifying an action brought under this section as a class action.

SECTION 2. Provides that the change in law made by Section 27.007(b), Property Code, as amended by this Act, applies only to a cause of action that is brought on or after the effective date of this Act.

SECTION 3. Makes application of Section 27.007(c), Property Code, prospective to July 1, 2005.

SECTION 4. Effective date: upon passage or 91 days after adjournment.