BILL ANALYSIS

H.B. 1446
By: Orr
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a property owner's association (association) may not foreclose on an association's assessment lien if the debt securing the lien consists solely of fines or attorneys fees incurred by the association solely associated with fines. The Property Code does not specify the priority in which a payment made by a property owner to the association should be applied, allowing associations to apply a payment made by an owner to that owner's outstanding fines, leaving unpaid the owner's outstanding assessments. The association can then foreclose on an assessment lien because the debt securing the lien consists of unpaid assessments.

As proposed, House Bill No. 1446 would require that, unless otherwise provided in writing by the property owner, a payment from an owner to an association be applied to the owner's debt in the specified order of priority.

RULEMAKING AUTHORITY

It is the opinion of the Committee on Business and Industry that this bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

The bill provides that, unless otherwise specified in writing by the property owner, payments received by a property owners association from an owner shall be applied to the owner's debt to the association in the following priority:

1) any delinquent assessment
2) any current assessment
3) any fines assessed by the association
4) any attorney fees incurred by the association solely associated with fines assessed by the association.

EFFECTIVE DATE

The effective date is September 1, 2005.