

BILL ANALYSIS

H.B. 1919
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Business & Industry
Committee Report (Amended)

BACKGROUND AND PURPOSE

In 1987, the Texas Legislature adopted Chapter 372, Local Government Code, which authorized municipalities to establish Public Improvement Districts (PIDs). PIDs are created through a petition process by the effected property owners. After public hearings on the petition, the governing body of the municipality may establish a PID by defining its boundary and approving the proposed public improvement projects to be undertaken within the PID. The specific type and nature of permitted public improvements are set forth within the statute. Generally, the improvements are those made to public property and rights-of-ways within the PID that are in addition to those usually constructed within a development and may include medians, landscaping, fountains, distinctive lighting, signage and the like. The PID may be a residential or a commercial area. An advisory board appointed by the municipality's governing body approves the improvement project, adopts a service plan which must cover at least five years and be updated annually, and establishes a plan providing that certain costs and maintenance of the public improvements be paid by special assignments levied against property within the PID.

A problem has arisen as to residential PIDs where purchasers of single family residences within the PID are not advised of the existence of the PID and the nature and extent of the annual assessments for payment of the costs and maintenance of the public improvements undertaken within the PID. Notice of the annual assessment is given concurrent with and is included in the annual ad valorem tax statement given by the municipality to the property owner. Often, this is the first notice that a property owner has that they are responsible for an additional annual payment on their property. The assessment constitutes a lien on the property. The statute provides for penalty and interest for non-payment and the lien may be enforced by foreclosure.

House Bill No. 1919 requires the seller of a single-family residence that is subject to a PID assessment to give written notice thereof to a prospective buyer of the residence at or prior to placing the residence under an executory contract for the purchase of the property. The form of notice and certain excepted transfers are provided for in the bill as well as the rights of a buyer who is not given the required notice.

House Bill No. 1919 is patterned after a current statutory requirement for notice to a purchaser of residential property that is governed by a homeowner's association and subject to periodic homeowner dues payments.

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, department, agency, or institution.

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 5, Property Code, by adding Section 5.014 which requires a seller of residential real property that is located in a public improvement district and that consists of not more than one dwelling unit to give a written notice from the seller to a purchaser of a single family residential property within a Public Improvement District and the form of such notice, the time for giving such notice, the type of transfers that are exempt from such notice requirement, the rights of a purchaser not given the required notice, and that such

rights of a purchaser not given such notice are such purchaser's exclusive remedy for the seller's failure to provide such notice.

SECTION 2. Provides that such notice requirement applies only to a contract that is binding on a seller and purchaser on or after January 1, 2006.

SECTION 3. Effective Date

EFFECTIVE DATE

September 1, 2005

EXPLANATION OF AMENDMENT

Committee Amendment No. 1 merely changes the effective date of the Act from September 1, 2005 to January 1, 2006.