

BILL ANALYSIS

C.S.H.B. 1649
By: Leibowitz
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Chapter 43, Local Government Code, requires municipalities to prepare an annexation plan identifying property that may be annexed at the end of three years. Before the 90th day after the date a municipality adopts or amends an annexation plan, the municipality must give written notice to the owner of each property, as indicated by the appraisal records, which is included in or removed from the municipality's annexation plan.

The purpose of C.S.H.B. 1649 is to require a seller of property to provide a copy of any letter received from a municipality notifying the owner that the property is included in an annexation plan and allows the purchaser to terminate the contract under certain conditions if they do not receive this notice.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This bill amends Section 5.011(d), Property Code, to require, in addition to other notice, that the seller is required to provide the notice required by the new Section 5.0111, Property Code, and makes other conforming changes.

This bill amends Subchapter A, Chapter 5, Property Code by adding Section 5.0111, that is named SELLERS DISCLOSURE REGARDING ANNEXATION PLAN. The new Section 5.0111 requires that, in addition to the notice required by Section 5.011, a seller of property shall give written notice to a purchaser indicating whether the seller has received notice from a municipality under Section 43.052, Local Government Code, that the property is included in the municipality's annexation plan and may be subject to annexation by the municipality. The seller must include a copy of any notice received from the municipality by the seller under Section 43.052, Local Government Code. This bill requires such written notice to read substantially similar to specific language in the bill. This bill requires the seller to deliver the notice to the purchaser before the date the executory contract binds the purchaser to purchase the property, and provides that the notice may be given separately, as part of the contract during negotiations, or as part of any other notice the seller delivers to the purchaser.

This bill provides that this new section does not apply to certain transfers (those under a court order or foreclosure sale, by a trustee in bankruptcy, to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest, by a mortgagee or a beneficiary under a deed of trust who has acquired the land at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the land by a deed in lieu of foreclosure, by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust, from one co-owner to another co-owner of an undivided interest in the real property, to a spouse or a person in the lineal line of consanguinity of the seller, to or from a governmental entity, of only a mineral interest, leasehold interest, or security interest, or of real property that is located wholly within a municipality's corporate boundaries).

This bill authorizes the purchaser to terminate the contract for any reason if an executory contract is entered into without the seller providing the notice required by this section. This bill provides that a purchaser's termination of the contract under this section must be before the

earlier of the seventh day after the date the purchaser receives the notice, or the date the transfer occurs. This bill provides that the provisions of this termination provision (Subsection (d)) does not apply if the seller has not received written notice from a municipality under Section 43.052, Local Government Code, that the property is included in the municipality's annexation plan.

This bill provides that this Act applies only to a transfer of property that occurs on or after the effective date of this Act. A transfer of property that occurs before the effective date of this Act is covered by the law in effect at the time the transfer occurs, and the former law is continued in effect for that purpose. For the purposes of this section, a transfer of property occurs before the effective date of this Act if the contract binding the purchaser to purchase the property is executed before that date.

This bill provides for an effective date of the act as September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Generally, the Committee Substitute makes disclosure of annexation a check off that the seller must disclose. The bill allows the seller to say that they are not aware if they did or did not receive a notice of annexation from a municipality. The Committee Substitute changes the time allowed to back out of contract if notification is not received from 8 to 7 days to match current statute for the current annexation notice requirement. The Committee Substitute adds language that the option to back out does not apply if the seller did not receive written notice from a municipality that a property was included in an annexation plan.