

BILL ANALYSIS

Senate Research Center
80R3262 AJA-F

H.B. 1679
By: Hughes (Eltife)
Natural Resources
5/11/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1103 enacted by the 79th Legislature, Regular Session, 2005, repealed and replaced Chapter 51, Subchapter E, Natural Resources Code, relating to Sale and Lease Vacancies. The chapter was rewritten to create a more efficient administrative processing of vacancy applications that afforded all parties involved protection of their interests in the land claimed to be vacant.

Section 51.176 instructs the applicant as to what documents must be submitted in order to initiate a vacancy proceeding. Under that section an applicant is allowed to submit a survey of the alleged vacancy if the applicant has already completed a survey on the land at issue. If an applicant had not completed a survey, the commissioner is required to appoint a surveyor to survey the alleged vacancy.

The purpose of this legislation is to make uniform the documents that must be submitted with any survey during the processing of a vacancy application. As currently written, the documents submitted by the applicant under Section 51.176(a)(6) are not as complete as those submitted by the appointed surveyor in Section 51.185. It is imperative for the documents to be submitted uniformly because the commissioner relies on these documents to determine if a vacancy exists.

Although it was the intent of the legislature that the attorney ad litem represent all necessary parties identified but who could not be located. The current language of the statute contradicts that intent. At the onset of the vacancy determination process, the applicant must submit a list of all necessary parties identified from a search of the property records. Current statute also requires the attorney ad litem to identify all necessary parties. However, current statute an attorney ad litem is only required to represent parties identified by an applicant that have not been located, and is not required to all the necessary parties identified and not located. As a result, an attorney ad litem may have identified other necessary parties during its investigation in addition to those identified by the applicant, but may only represent the necessary parties the applicant identified and who cannot be located. This contradicts the legislative intent to ensure the protection of property rights for all necessary parties during a vacancy determination process.

H.B. 1679 authorizes an attorney ad litem to represent parties identified by an applicant that have not been located in addition to all necessary parties that have been identified and not located.

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 51.176(a), Natural Resources Code, to require a completed vacancy application to purchase or lease land claimed to be vacant to include a survey report, at the applicant's discretion, that contains the field notes describing the lands and the lines and corners surveyed and a plat depicting the results of the survey.

SECTION 2. Amends Section 51.180(b), Natural Resources Code, require the appointment of an attorney ad litem to represent any necessary party that has not been located, rather than any necessary party identified under Section 51.176(a)(3) (relating to the protection of another right to land) that has not been located.

SECTION 3. Makes the application of this Act prospective.

SECTION 4. Effective date: September 1, 2007.