

## **BILL ANALYSIS**

H.B. 3709  
By: Callegari  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law authorizes residential subdivision developers to create property owners' associations for their subdivisions and establish dedicatory instruments (i.e. restrictive covenants, by-laws, or other regulatory instruments) for those associations. In some cases, developers have adopted dedicatory instruments that prohibit subsequent residential members of those associations from changing their associations' dedicatory instruments. Such provisions preclude residents from having a fair opportunity to amend their dedicatory instruments to reflect their interests.

House Bill 3709 prohibits a residential subdivision developer from adopting a dedicatory instrument that prohibits the amendment of that instrument by the property owners' association once the developer no longer has a controlling interest on the association's board.

### **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**

H.B. 3709 amends the Property Code to prohibit a dedicatory instrument created by a subdivision developer of a residential subdivision or by a property owners' association in which the developer has a majority of the voting rights or that developer otherwise controls under the terms of the dedicatory instrument from prohibiting the amendment of any provision of the dedicatory instrument by the property owners' association after the developer no longer controls the association or the board of directors. Provides that a dedicatory instrument that violates this prohibition is void and unenforceable.

The bill provides that the change in law made by this Act applies to a dedicatory instrument created before, on, or after the effective date of this Act, except as specifically provided by a dedicatory instrument in a provision that existed before the effective date of this Act.

### **EFFECTIVE DATE**

September 1, 2007.