

## **BILL ANALYSIS**

C.S.H.B. 556  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Civil Practice and Remedies Code defines adverse possession as "actual and visible appropriation of real property, commenced and continued under a claim of right that is inconsistent with and is hostile to the claim of another person." Currently, if an owner of real property does not file suit against the person claiming the property by adverse possession, the person claiming the property through adverse possession can claim ownership of the real property without providing compensation. However, if the owner of the real property files suit against the person claiming the property through adverse possession, the property owner is responsible for all costs associated with protecting his or her property rights.

C.S.H.B. 556 requires a court to award costs and attorney's fees to the prevailing party in certain suits for the possession of real property.

### **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**

C.S.H.B. 556 amends the Civil Practice and Remedies Code to require a court, rather than authorize a court, in a suit for the possession of real property between a person claiming possession under record title to the property and one claiming possession by adverse possession, to award costs and reasonable attorney's fees to the prevailing party if the prevailing party recovers possession of the property from a person unlawfully in actual possession.

### **EFFECTIVE DATE**

September 1, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 556 differs from the original by requiring a court to award costs and reasonable attorney's fees to the prevailing party if such party recovers possession of the property from a person unlawfully in actual possession, whereas the original requires the person claiming by adverse possession to pay the costs and reasonable attorney's fees of the person claiming possession under record title, regardless of who is the prevailing party. The substitute removes a provision from the original making the original's provisions inapplicable if the person claiming possession by adverse possession retains possession of the property based on a theory other than adverse possession.