

## **BILL ANALYSIS**

C.S.H.B. 570  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Homeowners and tenants sometimes experience confusion and frustration after moving into an unincorporated area that is developed and appears urban only to learn later, sometimes after purchasing the property or entering into a lease, that the area is outside municipal boundaries and does not offer access to the same local government services available to municipal residents. Tenants are especially vulnerable to this situation because tenants often have access to fewer facts pursuant to taxation than are accessible to a property owner.

C.S.H.B. 570 requires a seller of property or a landlord leasing property located wholly or partly in the unincorporated area of certain counties to provide a notice to a buyer or tenant regarding the local governmental entities that govern and provide services to the applicable property. The bill authorizes a buyer or tenant to terminate the contract or lease, respectively, if the person does not receive the required information.

### **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. 570 amends the Property Code to require a seller of residential real property wholly or partly located in an unincorporated enclave in a county that has a population of more than one million and in which more than 80 percent of the population lives in a single municipality to provide to the purchaser of the property a written notice listing each taxing authority to which the property is subject and each local government in whose territory the property is located, and describing the boundaries of the unincorporated enclave. The bill defines an "unincorporated enclave" to mean an unincorporated area of a county bounded entirely by the incorporated territory and the extraterritorial jurisdiction of one or more municipalities, the incorporated territory of one or more municipalities, or the extraterritorial jurisdiction of one or more municipalities. The bill defines "local government."

C.S.H.B. 570 requires the seller to deliver the notice to the purchaser before the effective date of an executory contract binding 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. The bill exempts from the notification requirements a transfer:

- 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 the 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; or
- of only a mineral interest, leasehold interest, or security interest.

The bill authorizes a purchaser who enters into an executory contract without being provided the required notice by the seller to terminate the contract for any reason not later than the earlier of the seventh day after receiving the notice or the date the transfer occurs as provided by the contract. The bill provides that the right to terminate the contract is the purchaser's exclusive remedy for the seller's failure to provide the required notice.

C.S.H.B. 570 requires a landlord who leases property located partly in an unincorporated enclave in a county that has a population of more than one million and in which more than 80 percent of the population lives in a single municipality to provide to a proposed tenant of the property a written notice indicating that the leased property is not wholly located within the incorporated territory of a municipality and that municipal services may not be available. The bill requires a landlord who leases property located wholly in an unincorporated enclave in such a county to provide to a proposed tenant of the property a written notice indicating that the leased property is wholly located outside the incorporated territory of a municipality and that municipal services may not be available.

C.S.H.B. 570 requires the landlord to deliver the notice to the proposed tenant before the effective date of a lease binding the proposed tenant to lease the property. The bill provides that the notice may be given separately, as part of the lease, or as part of any other notice the landlord delivers to the proposed tenant. The bill authorizes a tenant who enters into a lease without being provided the required notice by the landlord to terminate the lease for any reason not later than the earlier of the seventh day after receiving the notice or the effective date of the lease. The bill provides that the right to terminate the lease is the tenant's exclusive remedy for the landlord's failure to provide the required notice.

#### **EFFECTIVE DATE**

September 1, 2009.

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

C.S.H.B. 570 differs from the original by requiring a landlord who leases property located wholly or partly in an unincorporated enclave in a certain county to provide to a proposed tenant of the property a written notice indicating that the leased property is wholly located outside or is not wholly located within the incorporated territory of a municipality and that municipal services may not be available, whereas the original requires a landlord who leases property located wholly or partly in an unincorporated enclave in a certain county to provide to a proposed tenant of the property a written notice listing each taxing authority to which the property is subject and each local government in whose territory the property is located, and describing the boundaries of the unincorporated enclave.