

BILL ANALYSIS

C.S.H.B. 4219
By: Darby
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law exempts homeowners' associations, charitable organizations, and governmental entities from a prohibition against the imposition of certain fees on the transfer of real property. However, some private entities maintain that transfer fees are legal, even when imposed by private, for-profit entities, so long as the fee is imposed only on the seller of the property.

C.S.H.B. 4219 prohibits a transfer fee on the conveyance of real property from being imposed on a seller, also referred to as a transferor.

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. 4219 amends a Property Code provision that prohibits a deed restriction or other covenant running with the land applicable to the conveyance of residential real property from requiring the payment of a fee by a transferee in connection with certain real property transfers to apply the prohibition to any real property and to a transferor of such property and to specify that the fee is in connection with any property transfer, rather than a future property transfer.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4219 removes a provision in the original that exempts from the prohibition a fee payable to an entity that operates a golf and country club in or adjacent to one or more subdivisions where the owners of real property in such subdivisions are required deed restriction to obtain and maintain a membership in such club. The substitute removes provisions in the original that specify that such an exemption becomes null and void under certain conditions, and establishes that a violation of these provisions does not invalidate a conveyance. The substitute removes provisions in the original that entitle a property owner who meets certain criteria to vote in an election on the issue of authorizing an entity to impose a transfer fee, specify that a purchaser is not required to pay any transfer fees if the purchaser enters into a contract without the seller providing the written statement disclosing all fees associated with the transfer, establish that a seller of real property is not liable for any transfer fee if the entity receiving such a fee does not meet certain requirements, and specify that an exemption from the prohibition does not create any additional authority on any entity to receive a transfer fee.