

BILL ANALYSIS

S.B. 235
By: West
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Homeowners' associations are intended to maintain common areas in residential neighborhoods and to protect homeowners' investments in their property by enforcing certain aesthetic guidelines. Developers often retain control over most aspects of a homeowners' association while construction and sale of houses within the development are ongoing. S.B. 235 seeks to strike a balance between the developer's interest in the ultimate completion of a development and the need to prevent discriminatory housing practices.

S.B. 235 establishes that a restrictive covenant providing a right of first refusal for the sale or lease of a residential unit or residential lot in favor of a homeowners' association or its members is void.

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

S.B. 235 amends the Property Code to establish that, except for a restrictive covenant that provides a right of first refusal in favor of a developer or builder during the development period, a restrictive covenant is void to the extent that it provides a right of first refusal for the sale or lease of a residential unit or residential lot in favor of the property owners' association or the association's members. The bill defines "development period" as a period stated in a declaration during which a declarant reserves a right to facilitate the development, construction, and marketing of the subdivision; a right to direct the size, shape, and composition of the subdivision; or any other right customarily reserved by a declarant for the benefit of developers and builders.

EFFECTIVE DATE

January 1, 2010.