

BILL ANALYSIS

Senate Research Center
81R332 AJA-D

S.B. 235
By: West
Intergovernmental Relations
2/18/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Homeowners' associations (HOAs) 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 an HOA while construction and sale of houses within the development is still ongoing.

As proposed, S.B. 235 strikes a balance between the developer's interest in the ultimate completion of a development and the need to prevent discriminatory housing practices. The bill provides 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 the HOA or its members is void.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 202, Property Code, by adding Section 202.008, as follows:

Sec. 202.008. RIGHT OF FIRST REFUSAL PROHIBITED. (a) Defines "development period."

(b) Provides that a restrictive covenant is void to the extent the covenant 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.

(c) Provides that this section does not apply to a restrictive covenant that provides a right of first refusal in favor of a developer or builder during the development period.

SECTION 2. Provides that Section 202.008, Property Code, as added by this Act, applies to a deed restriction enacted before, on, or after the effective date of this Act.

SECTION 3. Effective date: January 1, 2010.