

BILL ANALYSIS

S.B. 1919
By: West
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, there are no consequences for a property owners' association's (POA) failure to file a POA management certificate. Such a failure can hinder an individual's attempt to address title issues and contact a POA or its representative.

S.B. 1919 amends current law relating to the requirements for recording a POA management certificate.

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. 1919 amends the Property Code to include the name of a property owners' association and the name and mailing address of the association's designated representative in the information the association is required to include on the management certificate the association is required to record in each county in which any portion of the residential subdivision is located. The bill establishes that, if a property owners' association fails to record a management certificate or an amended management certificate, the purchaser, lender, or title insurance company or its agent in a transaction involving property in the association is not liable to the association for any amount due to the association on the date of a transfer to a bona fide purchaser and for any debt to or claim of the association that accrued before the date of a transfer to a bona fide purchaser. The bill specifies that a lien of a property owners' association that fails to file a management certificate or an amended management certificate to secure an amount due on the effective date of a transfer to a bona fide purchaser is enforceable only for an amount incurred after the effective date of sale. The bill defines "bona fide purchaser" as a person who pays valuable consideration without notice of outstanding rights of others and acts in good faith or a third-party lender who acquires a security interest in the property under a deed of trust. The bill requires a property owners' association that exists on September 1, 2009, to file the required information not later than May 1, 2010.

EFFECTIVE DATE

September 1, 2009.