

BILL ANALYSIS

Senate Research Center
K1R6857 PMO-F

S.B. 1919
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Intergovernmental Relations
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

As proposed, S.B. 1919 provides that if a POA fails to file a management certificate in each county in which part of a residential subdivision subject to the POA is located, the bona fide purchaser is not liable to the POA for any amount due on the date of a transfer or any debt to or claim of the POA that accrued before the date of a transfer.

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 Section 209.004, Property Code, by amending Subsections (a) and (c) and adding Subsections (d), (e), and (f), as follows:

(a) Requires a property owners' association (POA) to record in each county in which any portion of the residential subdivision is located a management certificate, signed and acknowledged by an officer or the managing agent of the POA, stating certain information, including the name and mailing address of the POA, the name and mailing address of the person managing the POA, or the POA's designated representative. Makes nonsubstantive changes.

(c) Provides that the POA and its officers, directors, employees, and agents, except as provided under Subsections (d) and (e), are not subject to liability to any person for a delay in recording or failure to record a management certificate, unless the delay or failure is willful or caused by gross negligence. Makes a nonsubstantive change.

(d) Provides that if a POA fails to record a management certificate or an amended management certificate under this section, the purchaser, lender, or title insurance company or its agent in a transaction involving property in the POA is not liable to the POA for any amount due to the POA on the date of a transfer to a bona fide purchaser and any debt to or claim of the POA that accrued before the date of a transfer to a bona fide purchaser.

(e) Provides that a lien of a POA that fails to file a management certificate or an amended management certificate under this section 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.

(f) Defines "bona fide purchaser."

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.