

BILL ANALYSIS

S.B. 2481
By: Hegar
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

H.B. 2403 was enacted during the 80th Legislature, Regular Session, 2007, in response to a developer north of Travis County who had instituted a program whereby he would receive a fee, like a reversionary interest, each time a lot or residence in the development transferred title, essentially providing himself a perpetual income stream by virtue of a deed restriction. H.B. 2403 prohibits this practice and voids deed restrictions that require fees connected to future transfers of property with three exceptions: fees collected by property owners' associations, fees paid to a 501(c)(3) corporation, and fees paid to a governmental entity.

Weston Lakes is a golf course development in far west Fort Bend County, near the City of Fulshear, whose deed restrictions from the outset provided for mandatory membership in the golf course country club by property owners. Weston Lakes' residential development has a property owners' association in effect, but the golf course country club is a separate, private venture and is not governed, operated, or controlled by the property owners' association. Accordingly, the membership fee and transfer fee for the golf course country club does not fall under the purview of the property owners' association. H.B. 2403 could have the effect of prohibiting the collection of the membership and transfer fee. However, because Weston Lakes golf course is not managed by the property owners' association and the fee is not payable to the property owners' association, it does not fit in the wording of the exception even if it fits the intent of the exception.

S.B. 2481 exempts from a fee for the future transfer of real property a deed restriction or other covenant running with the land that is payable to an entity other than a property owners' association that operates a golf course and country club in or adjacent to the subdivision if the subdivisions' property owners are required to be members of such a club, or that is payable for the benefit or in consideration of a conservation easement located in a county with a population of at least 500,000 and not more than one million.

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. 2481 amends the Property Code to exempt from a fee for the future conveyance of residential real property a deed restriction or other covenant running with the land that is payable to an entity other than a property owners' association that operates a golf course and country club in or adjacent to the subdivision if the subdivisions' property owners are required by deed restriction to obtain and maintain a membership in the golf course and country club, or that is payable for the benefit or in consideration of a conservation easement located in a county with a population of at least 500,000 and not more than one million.

EFFECTIVE DATE

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