LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB556** by Kuempel (Relating to payment of attorney's fees in certain actions to recover possession of real property.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code relating to payment of attorney's fees in certain actions to recover possession of real property.

The bill would require a court to award costs and reasonable attorney's fees to the prevailing party, rather than making such awards permissive. The costs and fees would be awarded only if the court finds that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith. The court may also award costs and fees to the prevailing party in the absence of a finding of adverse possession.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated. In a suit for the possession of real property, the bill would require payments of costs and reasonable attorney’s fees to the prevailing party.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: JOB, KJG, TB, MN, TP, JP