

BILL ANALYSIS

C.S.H.B. 44
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current statutes, in provisions relating to the use of restrictive covenants by a property owners' association, do not specify the allowable uses of a residential lot owned by a homeowner that is adjacent to the homestead and for which there are no specific conveyance restrictions or for which use of the property is otherwise allowed by the conveyances. C.S.H.B. 44 intends to add that specificity to the statutes and to codify existing case law that addresses these issues.

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

C.S.H.B. 44 amends the Property Code to prohibit a property owners' association from adopting or enforcing a provision in a dedicatory instrument that prohibits or restricts the owner of a lot on which a residence is located from using for residential purposes an adjacent lot owned by the property owner. The bill requires an owner to obtain the approval of the association or, if applicable, an architectural committee established by the association, based on criteria prescribed by the dedicatory instruments specific to the use of a lot for residential purposes before the owner begins the construction, placement, or erection of a building, structure, or other improvement for the residential purpose on an adjacent lot.

C.S.H.B. 44 requires an owner who elects to use an adjacent lot for residential purposes under the bill's provisions, on the sale or transfer of the lot containing the residence, to include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions or restore the adjacent lot to the original condition before the addition of the improvements allowed under the bill's provisions to the extent that the lot would again be suitable for the construction of a separate residence as originally platted and provided for in the conveyance to the owner. The bill specifies that, unless the lot has been restored under the bill's provisions, an owner may sell the adjacent lot separately only for the purpose of the construction of a new residence that complies with existing requirements in the dedicatory instrument. The bill makes void a provision in a dedicatory instrument that violates the bill's provisions. The bill defines "adjacent lot" and "residential purpose."

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 44 contains a provision not included in the original defining "adjacent lot" and differs from the original by including in the definition of "residential purpose," with respect to the use of a lot, the location on the lot of a residential-sized propane or natural gas tank.

C.S.H.B. 44 contains a provision not included in the original requiring an owner to obtain certain approval before the owner begins the construction, placement, or erection of an improvement for the residential purpose on an adjacent lot.

C.S.H.B. 44 contains a provision not included in the original requiring an owner who elects to use an adjacent lot for residential purposes, on the sale or transfer of the lot containing the residence, to include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions or restore the adjacent lot to a certain condition.

C.S.H.B. 44 contains a provision not included in the original specifying that, unless the lot has been restored to a certain condition, an owner may sell the adjacent lot separately only for the purpose of the construction of a new residence that complies with existing requirements in the dedicatory instrument.

C.S.H.B. 44 differs from the original in nonsubstantive ways.