

BILL ANALYSIS

Senate Research Center

H.B. 1821
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a purchaser under contract to purchase residential property in a property owners' association has limited options for obtaining a resale certificate, requiring involvement of third parties, which restricts the ability of the purchaser to gain information needed to complete the transaction. H.B. 1821 seeks to provide more flexibility among the parties in such a transaction by providing the purchaser with the ability to obtain a resale certificate.

H.B. 1821 amends current law relating to the delivery of subdivision information by a property owners' association to purchasers.

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 the heading to Section 207.003, Property Code, to read as follows:

Sec. 207.003. DELIVERY OF SUBDIVISION INFORMATION TO OWNER OR PURCHASER.

SECTION 2. Amends Section 207.003, Property Code, by amending Subsections (a), (b), and (f) and adding Subsections (a-1) and (c-1), as follows:

(a) Requires the property owners' association, not later than the 10th business day after the date a written request for subdivision information is received from an owner or the owner's agent, a purchaser of property in a subdivision or the purchaser's agent, or a title insurance company or its agent acting on behalf of the owner or purchaser, payment for the requested information is received, and the evidence of the requestor's authority to order a resale certificate under Subsection (a-1) is received and verified, to deliver to the owner or the owner's agent, the purchaser or the purchaser's agent, or the title insurance company or its agent a current copy of the restrictions applying to the subdivision; a current copy of the bylaws and rules of the property owners' association; and a resale certificate that complies with Subsection (b). Makes nonsubstantive changes.

(a-1) Authorizes the property owners' association, for a request from a purchaser of property in a subdivision or the purchaser's agent, to require the purchaser or purchaser's agent to provide to the association, before the association begins the process of preparing or delivers the items listed in Subsection (a), reasonable evidence that the purchaser has a contractual or other right to acquire property in the subdivision.

(b) Requires that a resale certificate under Subsection (a) contain:

(1) a statement of any right of first refusal, other than a right of first refusal that is prohibited by statute, and any other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property;

(2) Makes no changes to this subdivision.

(3) the amount of any special assessment that has been approved as of the date the resale certificate is prepared, rather than the amount of any special assessment that is due after the date the resale certificate is prepared;

(4)-(8) Makes no changes to these subdivisions;

(9) the style and cause number of any pending lawsuit in which the property owners' association is a defendant, other than a lawsuit relating to unpaid property taxes of an individual member of the association;

(10)-(15) Makes no changes to these subdivisions; and

(16) a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

Makes nonsubstantive changes.

(c-1) Requires a purchaser of the property to pay the fee to the property owners' association or its agent for issuing the resale certificate unless otherwise agreed by the purchaser and seller of the property. Authorizes the property owners' association to require payment before beginning the process of providing a resale certificate, but prohibits the association from processing a payment for a resale certificate until the certificate is available for delivery. Prohibits the association from charging a fee if the certificate is not provided in the time prescribed by Subsection (a).

(f) Requires the property owners' association, not later than the seventh business day after the date a written request for an update of a resale certificate delivered under Subsection (a) is received from an owner, owner's agent, or title insurance company or its agent acting on behalf of the owner, to deliver to the owner, owner's agent, or title insurance company or its agent an updated resale certificate that contains certain information.

SECTION 3. Provides that the change in law made by this Act applies only to a written request for subdivision information submitted on or after the effective date of this Act. Provides that a written request for subdivision information submitted before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. Effective date: September 1, 2011.