

BILL ANALYSIS

H.B. 1821
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, a purchaser under contract to purchase residential property in a property owners' association has limited options for obtaining a resale certificate, requiring the 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.

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

H.B. 1821 amends the Property Code to include a purchaser of property in a subdivision or the purchaser's agent among the entities to which a property owners' association is required to deliver certain subdivision information. The bill establishes that the subdivision information delivered includes an association disclosure statement, rather than a resale certificate, that contains certain information. The bill specifies that the association is required to deliver that information not later than the 10th business day, rather than the 10th day, after the date the request is received and that the requirement applies when the association receives written request for an association disclosure statement, rather than a written request for subdivision information. The bill provides that, in the case of a request by a purchaser of property in a subdivision or the purchaser's agent, the association is entitled to require the purchaser or agent to provide to the association, before delivery of the subdivision information, reasonable evidence that the purchaser has a contractual or other right to acquire property in the subdivision.

H.B. 1821 establishes that the information that is required under provisions of law to be contained in a resale certificate is instead required to be contained in an association disclosure statement. The bill exempts from a statement of a right of first refusal that is required to be contained in the disclosure statement a right of refusal that is prohibited by statute and specifies that the amount of any special assessment contained in the disclosure statement has been approved as of the date the statement is prepared, rather than the amount that is due after the date the resale certificate is prepared. The bill exempts from the information that is required to be contained in the disclosure statement regarding any pending lawsuit in which the association is a defendant such information relating to a lawsuit relating to unpaid property taxes of an individual member of the association. The bill includes among the information to be contained in the disclosure statement a statement of all fees associated with the transfer of ownership of the property, including a description of each fee, to whom each fee is paid, and the amount of each fee. The bill requires the party requesting an association disclosure statement to be responsible for payment of any fee charged for the statement. The bill specifies that an association is required to deliver an update to an association disclosure statement not later than the seventh business day, rather than deliver an update to a resale certificate not later than the seventh day, after the date a written request for the update is received from an owner, owner's agent, or title

insurance company or its agent acting on behalf of the owner. The bill makes conforming and nonsubstantive changes.

EFFECTIVE DATE

September 1, 2011.