

BILL ANALYSIS

S.B. 1353

By: Eltife

Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Despite certain exemptions, some claimants have improperly argued that information provided by a real estate broker or salesperson about real property is subject to deceptive trade practices and consumer protection law. S.B. 1353 seeks to reduce frivolous lawsuits by making provisions governing deceptive trade practices and consumer protection inapplicable to a claim arising from an act or omission by a broker or salesperson, with certain exceptions.

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. 1353 amends the Business & Commerce Code to make statutory provisions governing deceptive trade practices and consumer protection inapplicable to a claim against a person licensed as a broker or salesperson under The Real Estate License Act arising from an act or omission by the person while acting as a broker or salesperson, except for a claim arising from an express misrepresentation of a material fact that cannot be characterized as advice, judgment, or opinion, a claim arising from a failure to disclose information in violation of Section 17.46(b)(24), Civil Practices and Remedies Code, or a claim arising from an unconscionable action or course of action that cannot be characterized as advice, judgment, or opinion.

EFFECTIVE DATE

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