

BILL ANALYSIS

Senate Research Center
83R14845 AJA-F

H.B. 503
By: Hernandez Luna (Garcia)
Intergovernmental Relations
5/14/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, members of the boards of homeowners' associations (HOA) serve on a voluntary basis and receive no payment or monetary benefit. However, problems arise when HOA board members vote to approve contracts that would provide them, their family members, or entities in which they have a financial interest financial compensation. Some homeowners within those HOAs perceive a conflict of interest and misuse of their HOA dues.

H.B. 503 intends to mitigate conflicts of interests on property owner association boards by requiring more transparency and fairness in the contracting process.

H.B. 503 amends current law relating to the ability of a property owners' association to contract with an association board member or certain other persons or entities associated with the board member.

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 Section 209.002, Property Code, by adding Subdivision (4-a), to define "development period."

SECTION 2. Amends Chapter 209, Property Code, by adding Section 209.0052, as follows:

Sec. 209.0052. ASSOCIATION CONTRACTS. (a) Provides that this section does not apply to a contract entered into by a property owners' association (association) during the development period.

(b) Authorizes an association to enter into an enforceable contract with a current association governing board member (board) (board member), a person related to a current board member within the third degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code, a company in which a current board member has a financial interest in at least 51 percent of profits, or a company in which a person related to a current board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a financial interest in at least 51 percent of profits only if the following conditions are satisfied:

(1) the board member, relative, or company bids on the proposed contract and the association has received at least two other bids for the contract from persons not associated with the board member, relative, or company, if reasonably available in the community;

(2) the board member:

(A) is not given access to the other bids;

(B) does not participate in any board discussion regarding the contract; and

(C) does not vote on the award of the contract;

(3) the material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the association board and the board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection; and

(4) the board certifies that the other requirements of this subsection have been satisfied by a resolution approved by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection.

SECTION 3. Makes application of the change in law made by this Act prospective.

SECTION 4. Effective date: September 1, 2013.