

## BILL ANALYSIS

C.S.H.B. 503  
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Business & Industry  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

Interested parties contend that a conflict of interest arises when a residential property owners' association board member enters into a contract that provides the member financial compensation. C.S.H.B. 503 seeks to remedy this concern by regulating such contracts.

### 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. 503 amends the Property Code to authorize certain property owners' associations, under certain conditions as specified in the bill, to enter into an enforceable contract with a current association board member, a person related to a current association board member within the third degree by consanguinity or affinity, or a company in which a current association board member or a person related to a current association board member within the third degree by consanguinity or affinity has a financial interest in at least 51 percent of the profits.

C.S.H.B. 503 exempts from its provisions a contract entered into by an association during a development period, defined in the bill as a period stated in a declaration during which a declarant reserves a right to facilitate the development, construction, and marketing of the subdivision and reserves a right to direct the size, shape, and composition of the subdivision.

### EFFECTIVE DATE

September 1, 2013.

### COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 503 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

No equivalent provision.

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 209.002, Property Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development,

construction, and marketing of the subdivision; and  
(B) a right to direct the size, shape, and composition of the subdivision.

SECTION 1. Section 209.00591, Property Code, is amended by adding Subsection (d) to read as follows:

(d) A board member may not enter into a contract with the association under which the board member receives financial compensation for goods or services provided to the association.

SECTION 2. Chapter 209, Property Code, is amended by adding Section 209.0052 to read as follows:

Sec. 209.0052. ASSOCIATION CONTRACTS. (a) This section does not apply to a contract entered into by an association during the development period.

(b) An association may enter into an enforceable contract with a current association board member, a person related to a current association board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, a company in which a current association board member has a financial interest in at least 51 percent of profits, or a company in which a person related to a current association 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 association 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 2. (a) This section takes effect only if the Act of the 83rd Legislature, Regular Session, 2013, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

(b) Section 209.00592, Property Code, as added by Chapter 1217 (S.B. 472), Acts of the 82nd Legislature, Regular Session, 2011, is amended by adding Subsection (c) to read as follows:

(c) A board member may not enter into a contract with the association under which the board member receives financial compensation for goods or services provided to the association.

SECTION 3. The change in law made by this Act applies only to a contract entered into or renewed on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2013.

No equivalent provision.

SECTION 3. Substantially same as introduced version.

SECTION 4. Same as introduced version.