

BILL ANALYSIS

C.S.H.B. 2067
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Process servers, constables, and sheriffs are sometimes required to serve court documents to individuals that live in gated communities. Interested parties assert that such individuals frequently are not granted access to gated communities because of concerns regarding liability for damage or injury that may be caused by the document server while on site. Without access to such communities, the document server may be forced to postpone delivery until the documents can be served elsewhere, and such a delay in service may result in the postponement of the court proceedings. There is concern that such postponements create a backlog of cases before the court, costing litigants time and money. C.S.H.B. 2067 seeks to relieve concerns regarding the liability of persons providing access to a gated community for the delivery of process in an effort to save time and money by speeding up the delivery of court documents.

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. 2067 amends the Civil Practice and Remedies Code to establish an affirmative defense to a civil action for damages arising as a result of a property owner, manager, or security guard granting a person access to a gated community if the property owner, manager, or security guard granted the access in the exercise of reasonable care to a process server, constable, or sheriff for delivery of process.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2067 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

SECTION 1. Subchapter B, Chapter 17, Civil Practice and Remedies Code, is amended by adding Section 17.032 to read as follows:

Sec. 17.032. SERVICE AT GATED COMMUNITY. (a) In this section:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter B, Chapter 17, Civil Practice and Remedies Code, is amended by adding Section 17.032 to read as follows:

Sec. 17.032. SERVICE AT GATED COMMUNITY. (a) In this section:

83R 18800

13.86.502

Substitute Document Number: 83R 16474

(1) "Civil process" means all process issued or sanctioned by a civil court.

(2) "Gated community" means a residential subdivision or housing development that contains two or more dwellings not under common ownership and that has a vehicular or pedestrian gate.

(3) "Process server" means a person certified by the supreme court who serves civil process.

(b) A property owner, manager, or security guard who in the exercise of reasonable care grants access to a gated community to a process server, constable, or sheriff for delivery of process is not liable for any damages that may arise as a result of that act.

SECTION 2. Section 17.032, Civil Practice and Remedies Code, as added by this Act, applies to all process served on or after the effective date of this Act, without regard to whether the process was issued before, on, or after that date.

SECTION 3. This Act takes effect September 1, 2013.

(1) "Civil process" means all process issued or sanctioned by a civil court.

(2) "Gated community" means a residential subdivision or housing development that contains two or more dwellings not under common ownership and that has a vehicular or pedestrian gate.

(3) "Process server" means a person certified by the supreme court who serves civil process.

(b) It is an affirmative defense to a civil action for damages arising as a result of a property owner, manager, or security guard granting a person access to a gated community that the property owner, manager, or security guard granted the access in the exercise of reasonable care to a process server, constable, or sheriff for delivery of process.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.