

BILL ANALYSIS

C.S.H.B. 1970
By: Shaheen
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns over reports of property owners' associations levying large fines against property owners that do not correspond with the severity of the violation in question. C.S.H.B. 1970 seeks to address these concerns by requiring fines assessed by a property owners' association to be reasonable and by providing for transparency regarding the fines and related violations.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1970 amends the Property Code to require a property owners' association board to adopt an enforcement policy regarding the levying of fines by the association. The policy must include the following:

- each category of restrictive covenants for which the association may assess a reasonable fine, including:
 - property maintenance and repair;
 - individual misconduct; and
 - matters affecting health and safety;
- a schedule of the fine for each category of violation; and
- information regarding hearings before the board to discuss and verify facts and resolve a violation.

The enforcement policy may reserve the board's authority to levy a fine from the schedule of fines that varies on a case-by-case basis.

C.S.H.B. 1970 requires each property owners' association to do the following with respect to the enforcement policy:

- file a copy of the policy, and each subsequent amendment, with the county clerk of each county in which the subdivision is located;
- provide a copy of the policy to an owner of each property in the subdivision by:
 - posting the policy on a website maintained by the association or an agent acting on the association's behalf and accessible to association members; or
 - annually sending a copy of the policy, separately or included in routine communication from the association to property owners, by personal delivery, mail, or email in the manner prescribed by the bill; and

- make the policy available on any publicly accessible website maintained by the association or an agent acting on the association's behalf.

EFFECTIVE DATE

January 1, 2022.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1970 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises the required contents of the enforcement policy to do the following:

- replace the requirement for the policy to disclose each type of violation for which the association's board may assess a fine, as in the original, with the requirement for the policy to include each category of restrictive covenants for which the association may assess a fine, while retaining the requirement from the original that the amount of the fine be reasonable;
- require the policy to include a schedule of fines for each category of violation, rather than the amount of the fine for each type of violation, as in the original; and
- remove the specification that the information regarding hearings included in the policy be pertinent information.

The substitute includes a provision not in the original authorizing the policy to reserve the board's authority to levy a fine from the schedule of fines that varies on a case-by-case basis.

The substitute includes as an additional means by which an association can satisfy the requirement in the original to provide a copy of the adopted enforcement policy to an owner of each property in the subdivision posting the policy on a website maintained by an agent acting on the association's behalf and accessible to association members.

The substitute includes a provision not in the original requiring each association to make its enforcement policy available on any publicly accessible website maintained by the association or an agent acting on the association's behalf.

The substitute delays the effective date of the bill to January 1, 2022, whereas the effective date of the original was September 1, 2021.