

## **BILL ANALYSIS**

C.S.H.B. 923  
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Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties are concerned that property owners' associations are able to charge fines for restrictive covenant violations that are excessive in light of the severity of the violation. C.S.H.B. 923 seeks to address these concerns by establishing requirements regarding fines assessed by a property owners' association.

### **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. 923 amends the Property Code to require a property owners' association board to adopt a policy regarding the enforcement of fines assessed by the property owners' association and to require such a policy to disclose each type of violation for which the board may assess a fine, the amount of the fine for each type of violation, and pertinent information regarding hearings held before the board or a committee appointed by the board for purposes of discussing and resolving a violation. The bill requires the amount of such a fine to be reasonable in the context of the nature and frequency of the violation and the effect of the violation on the subdivision as a whole. The bill requires each property owners' association to file a copy of the association's adopted policy and each subsequent amendment with the county clerk of each county in which the subdivision is located and to provide a copy of the policy to an owner of each property in the subdivision by either posting the policy on a website maintained by the association or by annually sending a copy of the policy, separately or included in routine communication from the association to property owners, by one of the methods of delivery specified by the bill.

### **EFFECTIVE DATE**

September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 923 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.0061 to read as follows:

Sec. 209.0061. ASSESSMENT OF FINES.

A fine assessed by the property owners' association must be reasonable in the context of the nature and frequency of the violation and the effect of the violation on the subdivision as a whole. If the association allows fines for a continuing violation to accumulate against a lot or an owner, the association must establish a reasonable maximum fine amount for a continuing violation at which point the total fine amount is capped.

SECTION 2. Section 209.0061, Property Code, as added by this Act, applies only to a fine that becomes due on or after the effective date of this Act. A fine that

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.0061 to read as follows:

Sec. 209.0061. ASSOCIATION POLICY;

ASSESSMENT OF FINES. (a) A property owners' association board shall adopt a policy regarding the enforcement of fines assessed by the property owners' association. The policy must disclose:

(1) each type of violation for which the board may assess a fine;

(2) the amount of the fine for each type of violation; and

(3) pertinent information regarding hearings described by Section 209.007.

(b) The amount of a fine assessed by the property owners' association must be reasonable in the context of the nature and frequency of the violation and the effect of the violation on the subdivision as a whole.

(c) Each property owners' association shall:

(1) file a copy of the policy adopted under Subsection (a), and each subsequent amendment, with the county clerk of each county in which the subdivision is located; and

(2) provide a copy of the policy to an owner of each property in the subdivision by:

(A) posting the policy on an Internet website maintained by the property owners' association; or

(B) annually sending a copy of the policy, separately or included in routine communication from the property owners' association to property owners, by:

(i) hand-delivery to the owner;

(ii) first class mail to the owner's last known mailing address; or

(iii) e-mail to an e-mail address provided to the property owners' association by the owner.

SECTION 2. Same as introduced version.

becomes due before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.