

BILL ANALYSIS

C.S.H.B. 2912
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Residential Property Owners Protection Act sets out duties and responsibilities of a property owners' association. Concerns have been raised regarding the lack of available remedies when an association board member violates the act or a dedicatory instrument. C.S.H.B. 2912 seeks to address this issue by authorizing an owner to bring an action against a property owners' association for a violation of the act or a provision of the association's dedicatory instruments by a board member acting in the board member's official capacity and providing for certain remedies.

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. 2912 amends the Property Code to authorize an owner to bring an action against a property owners' association for a violation of the Texas Residential Property Owners Protection Act or a provision of the association's dedicatory instruments by an association board member acting in the board member's official capacity. The bill authorizes the owner to file a petition against the association with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief. If the justice of the peace finds that the board member violated the act or a dedicatory instrument while acting individually or with other board members, the justice of the peace may grant one or more of the following remedies:

- a judgment ordering the association to immediately remove the board member from the board;
- a judgment against the association for damages incurred by the owner resulting from the violation; or
- a judgment authorizing the owner to deduct the amounts awarded to the owner for damages, court costs, and attorney's fees from any future regular or special assessments payable to the association.

C.S.H.B. 2912 entitles the prevailing party in the action to a judgment for court costs and reasonable attorney's fees incurred by the party in connection with the action. The bill requires an owner to send written notice to a property owners' association of the owner's intent to bring an action against the association under the bill's provisions on or before the 10th business day

before the owner brings an action. The bill requires the notice to describe with sufficient detail the alleged violation and prescribes the deadline and method of delivery for the notice.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2912 differs from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions.

C.S.H.B. 2912 changes terms in the original as follows:

- "member of the association," "association member," and "member" with "owner"; and
- "person" with "owner," as applicable.

The substitute changes references to filing a petition with bringing an action.