

(The House considered SB 1918 by West, the Senate companion bill, in lieu of HB 2395, the House version of the bill, which had been set on the daily calendar and was analyzed by the House Research Organization. The bill subsequently was enacted as SB 1918.)

HOUSE

RESEARCH

ORGANIZATION bill analysis

5/8/2009

HB 2395

England

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SUBJECT: Allowing homeowners to request an updated property resale certificate

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Deshotel, Elkins, Christian, Gattis, Giddings, S. Miller

0 nays

5 absent — England, Keffer, Orr, Quintanilla, S. Turner

WITNESSES: For — Aaron Day, Texas Land Title Association (*Registered, but did not testify*: Jennifer Brown, Community Associations Institute; Randy Lee, Stewart Title Guaranty Co.; Jay Propes, Texas Association of Community Management Companies)

Against — Gwen Gates (*Registered, but did not testify*: Irene “Beanie” Adolph, Lynn G. Walshak, Texas Homeowners for HOA Reform; Nancy Hentschel)

BACKGROUND: Property Code, ch. 207, governs the disclosure of certain information by homeowners’ associations. The code requires a homeowners’ association to provide certain information, including a property resale certificate, within 10 days of receiving a written request from a homeowner or title insurance company. The resale certificate contains a variety of information about the subject property.

DIGEST: HB 2395 would require a homeowners’ association to provide to a homeowner or title insurance company upon request an updated resale certificate that contained:

- a statement of whether the homeowners’ association would waive a first right of refusal or other restraint, if such a restraint were contained in the restrictions;
- the status of any unpaid special assessments, dues, or other payments attributable to the property; and

- any changes to information in a previously issued certificate.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

CSHB 2395 would alleviate an inconvenience that often arises during sales transactions in homeowners associations, which may require a resale certificate prior to closing. When a home is contracted and preparing for final sale, some associations require a second resale certificate to ensure that all dues on the home have been cleared. CSHB 2395 would allow a property owner to request an updated resale certificate with a very short list of items, rather than the longer, full resale certificate that may be around \$200 to request. The bill would allow homeowners' associations to charge a reasonable sum for the information.

**OPPONENTS  
SAY:**

CSHB 2395 should revise language to clarify certain details in the bill. An updated certificate should be only for new matters that have arisen that were not in original certificate, and this should be clearly specified.

**NOTES:**

The companion bill, SB 1918 by West, passed the Senate by 31-0 on April 30 and has been referred to the House Business and Industry Committee.