

- SUBJECT:** Authorizing certain legal actions against property owners' associations
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 8 ayes — Leach, Davis, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith
- 0 nays
- 1 absent — Dutton
- WITNESSES:** For — Jay Blint; (*Registered, but did not testify:* Nancy Kozanecki, HOA Reform Coalition of Texas; Nicholas Chu, Justices of the Peace and Constables Association; David Kahne)
- Against — Weston Ray, TCAA; (*Registered, but did not testify:* John Krueger, Associa; Kevin Autin, Crystal Falls Homeowners Association)
- BACKGROUND:** Property Code, ch. 209, otherwise known as the Residential Property Owners Protection Act, governs homeowners associations.
- Concerns have been raised regarding the lack of available remedies for an owner when an association board member violates the Residential Property Owners Protection Act or a dedicatory instrument.
- DIGEST:** CSHB 2912 would authorize an owner to bring an action against a property owners' association for a violation of the Residential Property Owners Protection Act or of the association's dedicatory instruments committed by a board member acting in the member's official capacity.
- Remedies.** The owner could file a petition against the association requesting relief for the violation with the justice of the peace of a justice precinct where all or part of the property governed by the association was located. The prevailing party in such an action would be entitled to a judgment for court costs and reasonable attorney's fees incurred in connection with the action.

If the justice of the peace found that the board member had committed a violation while acting individually or with other board members, the justice could 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 allowing the owner to deduct the amounts awarded in damages resulting from the violation or court costs and reasonable attorney's fees incurred in connection with the action from any future regular or special assessments payable to the association.

**Notice.** On or before the 10th business day before the date an owner brought an action against an association, the owner would be required to send written notice to the association of the owner's intent to bring the action. The notice would be required to describe the alleged violation with sufficient detail and would have to be sent as specified under the bill to the mailing address of the association or authorized representative as reflected on the most current management certificate.

The bill would take effect September 1, 2021, and would apply only to a violation that occurred on or after that date.