

BILL ANALYSIS

Senate Research Center

S.J.R. 38
By: Ellis
State Affairs
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As Filed

DIGEST

Currently, under the Texas Supreme Court decision of *Inwood North Homeowners' Association v. Charlie Harris, Jr. et al. and Rolando M. Pamilar, et al.*, property owner associations have the power to foreclose on a homestead to collect delinquent assessments. This joint resolution would propose a constitutional amendment permitting an encumbrance to be fixed on homestead property for an obligation to pay certain property owners' associations fees, but would not allow the forced sale of the homestead by the property owner associations to collect delinquent assessments arising from such fees.

PURPOSE

As proposed, S.J.R. 38 proposes a constitutional amendment permitting an encumbrance to be fixed on homestead property for an obligation to pay certain property owners' association fees without permitting the forced sale of the homestead by the property owners' association to collect delinquent assessments arising from such fees.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 50, Article XVI, Texas Constitution, to provide that an obligation to pay property owners' association fees for maintenance and ownership of common facilities and services is a debt for which an encumbrance may be fixed on homestead property. Provides that the homestead is protected from forced sale for the payment of a debt described by this section. Makes conforming and nonsubstantive changes.

SECTION 2. Requires the proposed constitutional amendment to be submitted to the voters at an election to be held November 4, 1997. Sets forth the required ballot language.