

BILL ANALYSIS

Senate Research Center
76R4900 PAM-F

S.B. 434
By: Brown
State Affairs
2/12/1999
As Filed

DIGEST

Currently, the Texas Real Estate Commission provides that addendum and resale certificates may be used in transactions involving the sale of property subject to mandatory assessment in a property owners' association. The information contained in the certificate may be pertinent to the buyer. Some owners' associations refuse to provide a resale certificate or information about the association to a prospective buyer. This bill would authorize a property owner to request and receive information, including a resale certificate, from the property owners' association.

PURPOSE

As proposed, S.B. 434 establishes requirements for the disclosure of certain information by a property owners' association, and provisions for failure to comply.

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 Title 11, Property Code, by adding Chapter 207, as follows:

CHAPTER 207. DISCLOSURE OF INFORMATION BY PROPERTY OWNERS' ASSOCIATIONS

Sec. 207.001. DEFINITIONS. Defines "restrictions," "subdivision," "owner," "dedicatory instrument," "property owners' association," "restrictive covenant," "regular assessment," "special assessment," and "resale certificate."

Sec. 207.002. APPLICABILITY. Provides that this chapter is applicable to subdivisions whose property owners' association is entitled to levy regular or special assessments.

Sec. 207.003. DELIVERY OF SUBDIVISION INFORMATION TO OWNER. Requires the property owners' association to furnish the owner current copies of restrictive covenants applying to the subdivision, bylaws and rules of the association, and a resale certificate, within 10 days after receiving a written request from an owner. Requires a resale certificate to contain the current operating budget of the association and sets forth required information to be included.

Sec. 207.004. OWNER'S REMEDIES. Authorizes the owner to seek certain court orders or judgments if an association does not timely furnish information. Provides that the association and its agent are not liable for a delay or failure to furnish a resale certificate. Prohibits the association from denying the validity of any statement in the certificate. Provides that a resale certificate does not affect the right of the association to collect debts or liens on the property for assessment purposes. Provides that a purchaser, lender, or insurer who relies on a resale certificate is not liable for debts not disclosed in the certificate.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.