

BILL ANALYSIS

Senate Research Center

H.B. 2402
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law is unclear whether property owners' associations have the authority to require one or more of its members to grant easements on their property against their will.

As proposed, H.B. 2402 prohibits a property owners' association from forcing one of its members to grant an easement on that person's property against the person's will. This bill also prohibits certain developers of residential subdivisions from prohibiting an amendment to a dedicatory instrument of a property owner's association.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 209, Property Code, by adding Section 209.012, as follows:

Sec. 209.012. RESTRICTIVE COVENANTS GRANTING EASEMENTS TO CERTAIN PROPERTY OWNERS' ASSOCIATIONS. (a) Prohibits a property owners' association from amending a dedicatory instrument to grant the property owners' association an easement through or over an owner's lot without the consent of the owner.

(b) Provides that this section does not prohibit a property owners' association from adopting or enforcing a restriction in a dedicatory instrument that allows the property owners' association to access an owner's lot to remedy a violation of the dedicatory instrument.

SECTION 2. (a) Amends Chapter 209, Property Code, by adding Section 209.013, as follows:

Sec. 209.013. AUTHORITY OF ASSOCIATION TO AMEND DEDICATORY INSTRUMENT. (a) Prohibits a dedicatory instrument created by a developer of a residential subdivision or by a property owners' association in which the developer has a majority of the voting rights or that the developer otherwise controls under the terms of the dedicatory instrument from prohibiting the amendment of any provision of the dedicatory instrument by the property owners' association after the developer no longer controls the association or the board of directors.

(b) Provides that a provision in a dedicatory instrument that violates this section is void and unenforceable.

(b) Provides that the change in law made by this section applies to a dedicatory instrument created before, on, or after the effective date of this Act, except as specifically provided by a dedicatory instrument in a provision that existed before the effective date of this Act.

SECTION 3. Makes application of Section 209.012, Property Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2007.