

BILL ANALYSIS

Senate Research Center
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S.B. 234
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Homeowners' associations (HOAs) are intended to maintain common areas in residential neighborhoods and to protect homeowners' investments in their property by enforcing certain aesthetic guidelines. In recent years, however, many homeowners have become dissatisfied with the operation of their association. Disputes between HOA boards and individual homeowners can generate considerable acrimony and expense. This bill attempts to restore balance to the relationship between homeowner's association (HOA) boards and individual homeowners.

As proposed, S.B. 234 requires a court to allow the prevailing party in an action on a breach of a restrictive covenant reasonable attorney's fees and cost and claims. S.B. 234 requires the seller of residential property that is subject to membership in a property owner's association to provide certain information and notice to a buyer, including a resale certificate. S.B. 236 sets forth certain requirements relating to the content of and fees for such resale certificates.

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 Section 5.006(a), Property Code, to require the court, in an action based on breach of a restrictive covenant pertaining to real property, to allow to a prevailing party reasonable attorney's fees in addition to the party's costs and claim, rather than allow to a prevailing party who asserted the action reasonable attorney's fees in addition to the party's cost and claim.

SECTION 2. Amends Section 5.012, Property Code, by amending Subsection (a) and adding Subsections (f) and (g), as follows:

- (a) Sets forth the required language for the form a seller of a residential real property that is subject to membership in a property owner's association and that comprises not more than one dwelling unit located in this state is required to give to the purchaser of the property.
- (f) Requires the seller, on the purchaser's request for a resale certificate from the seller, to promptly deliver a copy of a current resale certificate or to take certain actions if the seller does not have a current resale certificate under Chapter 207 (Disclosure of Information by Property Owners' Associations).
- (g) Requires the seller or the purchaser, as agreed to by the parties, to pay the fee to the property owners' association or its agent for issuing the resale certificate under Chapter 207.

SECTION 3. Amends Section 207.003(b), Property Code, to require that a resale certificate under Subsection (a) contain the style and cause number of any pending lawsuit in which the property owners' association is a party, rather than a defendant, other than a lawsuit relating to unpaid property taxes of an individual member of the association, and a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

SECTION 4. (a) Makes application of Section 5.006, Property Code, of this Act prospective.

(b) Makes application of Section 5.012, Property Code, of this Act prospective.

SECTION 5. Effective date: January 1, 2010.