

BILL ANALYSIS

Senate Research Center
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S.B. 241
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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 associations. Disputes between HOA boards and individual homeowners often begin with the imposition of relatively small fines by the HOA board for violations of deed restrictions. Such fines, when combined with assessments and legal fees, can quickly become insurmountable for a homeowner, ultimately resulting in foreclosure. Currently, a homeowner is not guaranteed access to the courts in a proceeding for the foreclosure of an assessment lien.

As proposed, S.B. 241 requires a property owners' association to obtain a court judgment foreclosing an assessment lien and providing for issuance of an order of sale before the foreclosure of the lien, unless judicial foreclosure is waived in writing by the homeowner.

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 209.0091, as follows:

Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Prohibits a property owners' association (association), except as provided by Subsection (b), from foreclosing an association's assessment lien unless the association first obtains a court judgment foreclosing the lien and providing for issuance of an order of sale.

(b) Provides that judicial foreclosure is not required under this section if the owner of the property that is subject to foreclosure agrees in writing to waive judicial foreclosure under this section.

SECTION 2. Amends Section 209.010(a), Property Code, to create a subdivision from existing text and to require an association that conducts a foreclosure sale of an owner's lot to send a copy of Section 209.011 (Right of Redemption After Foreclosure) to the lot owner not later than the 30th day after the date of the foreclosure sale. Make nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: January 1, 2010.