

BILL ANALYSIS

Senate Research Center
83R15349 AJA-F

C.S.S.B. 593
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Intergovernmental Relations
3/28/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current statutes, in provisions relating to the use of restrictive covenants by a property owners' association, do not specify the allowable uses of a residential lot owned by a homeowner that is adjacent to the homestead and for which there are no specific conveyance restrictions or for which use of the property is otherwise allowed by the conveyances. C.S.S.B. 593 intends to add that specificity to the statutes and to codify existing case law that addresses these issues.

C.S.S.B. 593 amends the Property Code to prohibit a property owners' association from adopting or enforcing a provision in a dedicatory instrument that prohibits or restricts the owner of a lot on which a residence is located from using for residential purposes an adjacent lot owned by the property owner. The bill requires an owner to obtain the approval of the association or, if applicable, an architectural committee established by the association, based on criteria prescribed by the dedicatory instruments specific to the use of a lot for residential purposes before the owner begins the construction, placement, or erection of a building, structure, or other improvement for the residential purpose on an adjacent lot.

C.S.S.B. 593 requires an owner who elects to use an adjacent lot for residential purposes under the bill's provisions, on the sale or transfer of the lot containing the residence, to include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions or restore the adjacent lot to the original condition before the addition of the improvements allowed under the bill's provisions to the extent that the lot would again be suitable for the construction of a separate residence as originally platted and provided for in the conveyance to the owner. The bill specifies that, unless the lot has been restored under the bill's provisions, an owner may sell the adjacent lot separately only for the purpose of the construction of a new residence that complies with existing requirements in the dedicatory instrument. The bill makes void a provision in a dedicatory instrument that violates the bill's provisions. The bill defines "adjacent lot" and "residential purpose."

C.S.S.B. 593 amends current law relating to the authority of a property owners' association to regulate the use of certain lots for residential purposes.

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 209.015, as follows:

Sec. 209.015. REGULATION OF LAND USE: RESIDENTIAL PURPOSE. (a) Defines "adjacent lot" and "residential purpose" in this subsection.

(b) Prohibits a property owners' association, except as provided by this section, from adopting or enforcing a provision in a dedicatory instrument that prohibits or restricts the owner of a lot on which a residence is located from using for residential purposes an adjacent lot owned by the property owner.

(c) Requires an owner to obtain the approval of the property owners' association or, if applicable, an architectural committee established by the association or the association's dedicatory instruments, based on criteria prescribed by the dedicatory instruments specific to the use of a lot for residential purposes, including reasonable restrictions regarding size, location, shielding, and aesthetics of the residential purpose, before the owner begins the construction, placement, or erection of a building, structure, or other improvement for the residential purpose on an adjacent lot.

(d) Requires an owner who elects to use an adjacent lot for residential purposes under this section, on the sale or transfer of the lot containing the residence, to:

(1) include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions; or

(2) restore the adjacent lot to the original condition before the addition of the improvements allowed under this section to the extent that the lot would again be suitable for the construction of a separate residence as originally platted and provided for in the conveyance to the owner.

(e) Authorizes an owner to sell the adjacent lot separately only for the purpose of the construction of a new residence that complies with existing requirements in the dedicatory instrument unless the lot has been restored as described by Subsection (d)(2).

(f) Provides that a provision in a dedicatory instrument that violates this section is void.

SECTION 2. Effective date: upon passage or September 1, 2013.