

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2590
By: Johnson et al. (West)
State Affairs
5/22/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 2590 amends the Business & Commerce Code to establish that a violation of statutory provisions governing fraud committed in a transaction involving the transfer of title to real estate is a false, misleading, or deceptive act or practice under the Deceptive Trade Practices-Consumer Protection Act and that any public remedy under that act is available for a violation of those statutory provisions. The bill establishes that it is the duty of city attorneys to lend the consumer protection division of the attorney general's office any reasonable assistance requested in the commencement and prosecution of actions under the bill's provisions. The bill authorizes a city attorney to institute or prosecute such an action to the same extent and in the same manner as a district or county attorney is authorized to institute or prosecute such an action. The bill requires 75 percent of any penalty recovered in an action brought by a district, county, or city attorney to be deposited in the general fund of the county or municipality in which the violation occurred.

C.S.H.B. 2590 is intended to deter and lessen the impact of fraudulent real estate transactions.

C.S.H.B. 2590 amends current law relating to providing a remedy for fraud committed in certain real estate transactions.

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 27, Business & Commerce Code, by adding Section 27.015, as follows:

Sec. 27.015. DECEPTIVE TRADE PRACTICE; PUBLIC REMEDY. (a) Defines "consumer protection division" for purposes of this section.

(b) Provides that a violation of Section 27.01 (Fraud in Real Estate and Stock Transactions) that related to the transfer of title to real estate is a false, misleading or deceptive act or practice as defined by Section 17.46(b) (defining "false, misleading, or deceptive acts or practices"), and any public remedy under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17, is available for a violation of that section.

(c) Provides that it is the duty of city attorneys to lend the consumer protection division any reasonable assistance requested in the commencement and prosecution of actions under this section.

(d) Provides that to the same extent and in the same manner a district or county attorney may institute or prosecute an action under this section, a city attorney may institute or prosecute an action under this section.

(e) Requires that 75 percent of any penalty recovered, if a district, county, or city attorney brings an action under this section, be deposited in the general fund of the county or municipality in which the violation occurred.

(f) Provides that this section does not apply to an action to recover damages that is subject to Chapter 27 (Residential Construction Liability), Property Code.

SECTION 2. Provides that the changes in law made by this Act apply only to a violation of Section 27.01, Business & Commerce Code, that occurs on or after the effective date of this Act. Provides that a violation of Section 27.01, Business & Commerce Code, that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose. Provides that for purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

SECTION 3. Effective date: September 1, 2015.