

BILL ANALYSIS

Senate Research Center

S.B. 496
By: Harris
State Affairs
3/12/1999
Committee Report (Amended)

DIGEST

Currently, Texas law prohibits home equity loans from being made on lots over one acre in urban areas. This leaves the homeowners to either subdivide the lot, or try to argue that a lender can take an interest only in the home and less than one acre within a lot over one acre in size. S.B. 496 increases the maximum size of an urban homestead to 10 acres and prescribes permissible uses of rural and urban homesteads.

PURPOSE

As proposed, S.B. 496 increases the maximum size of an urban homestead to 10 acres and prescribes permissible uses of rural and urban homesteads.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 41.002(a), Property Code, to require the homestead of a family or a single, adult person, not otherwise entitled to a homestead, to consist of not more than 10 acres, rather than one acre, of land which may be in one or more contiguous lots, together with any improvements thereon, if used for the purposes of an urban home or as both an urban home and a place to exercise a calling or business

SECTION 2. Amends Section 41.002(c), Property Code, to provide that a homestead is considered to be urban, rather than rural, if at the time the designation is made, the property is located within and provided certain services by a municipality, rather than not served by municipal utilities and fire and police protection.

SECTION 3. Amends Section 41.005(b), Property Code, to make conforming changes.

SECTION 4. Amends Section 5.042(a), Property Code, to provide that the common-law rules known as the rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs, the doctrine of worthier title, and the doctrine or rule prohibiting an existing lien upon part of a homestead from extending to another part of the homestead not charged with the debts secured by the existing lien upon part of the homestead do not apply in this state.

SECTION 5. Effective date for SECTIONS 2 and 4 of this Act: September 1, 1999.

SECTION 6. Effective date for SECTIONS: 1, 3, and 6 of this Act: January 1, 2000, but only if a constitutional amendment is approved by the voters. Makes application of this Act prospective to January 1, 2000.

SECTION 7. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 41.002(a), Property Code, to require the homestead of a family or a single, adult person, not otherwise entitled to a homestead, to consist of not more than 10 acres, rather than one acre, of land which may be in one or more contiguous lots, together with any improvements thereon, if used for the purposes of an urban home or as both an urban home and a place to exercise a calling or business.

SECTION 4.

Amends Section 5.042, Property Code, to provide that the common-law rules known as the rule in Shelley's case, the rule forbidding a remainder to the grantor's heirs, the doctrine of worthier title, and the doctrine or rule prohibiting an existing lien upon part of a homestead from extending to another part of the homestead not charged with the debts secured by the existing lien upon part of the homestead do not apply in this state.

SECTION 5.

Amends SECTION 5 to add Section 4 to the effective date. Redesignates SECTION 4 as SECTION 5.

SECTION 6.

Amends SECTION 6 to add Section 6 to the effective date. Makes conforming changes. Redesignates SECTIONS 5 and 6 as SECTIONS 6 and 7.