

## **BILL ANALYSIS**

Senate Research Center  
79R15418 KCR-D

S.B. 1886  
By: Lindsay  
Intergovernmental Relations  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Under current law, single family residential property owners' associations have the power to enforce non-payment of mandatory dues through the use of judicial foreclosure. Typically, an owner is notified of his arrearage and given an opportunity to bring the account up to date or request a hearing before the association board to dispute the matter. After several months, the owner will decide to pay the dues or the association will file suit to foreclose and sell the property to satisfy the debt. In this scenario, the matter goes to district court and is handled like any other civil suit in which each party argues the party's side of the matter. However, some associations have the power to foreclose without going to court.

Under non-judicial foreclosure, the association begins the process in the same manner as with judicial foreclosure. However, instead of going to court, the associations simply posts notice that the property will be up for sale at the monthly public auction on the courthouse steps, and the property is sold.

Texas law provides numerous protections for homesteads. Protection from foreclosure by associations is not one of them.

As proposed, S.B. 1886 provides some level of relief to owners by requiring association foreclosures to be done judicially. In the instance that an owner does lose the owner's home, S.B. 1886 requires a judge to issue the order after the case has been heard.

### **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. Prohibits a property owners' association from foreclosing a property owners' association's assessment lien unless the association obtains a court judgment foreclosing the lien and ordering the sale.

SECTION 2. Repealer: Sections 209.008 (f) and (g) (Attorney's Fees), Property Code.

SECTION 3. Effective date: upon passage or September 1, 2005.