

BILL ANALYSIS

Senate Research Center
79R2820 PAM-D

S.B. 244
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Intergovernmental Relations
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, a property owner's association (association) may not foreclose on an association's assessment lien if the debt securing the lien consists solely of fines or attorneys fees incurred by the association solely associated with fines. The Property Code does not specify the priority in which a payment made by a property owner to the association should be applied, allowing associations to apply a payment made by an owner to that owner's outstanding fines, leaving unpaid the owner's outstanding assessments. The association can then foreclose on an assessment lien because the debt securing the lien consists of unpaid assessments.

As proposed, S.B. 244 would require that, unless otherwise provided in writing by the property owner, a payment from an owner to an association be applied to the owner's debt in the specified order of priority.

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 Section 209.009, Property Code, as follows:

Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES. (a) Creates this subsection from existing text.

(b) Requires that a payment received by a property owners' association from the property owner be applied to the owner's debt in a specific order, unless otherwise provided in writing by the property owner.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.