

By: Vasut, Jetton, White, et al.

H.B. No. 2912

A BILL TO BE ENTITLED

AN ACT

relating to a violation of the Texas Residential Property Owners Protection Act or a dedicatory instrument by a board member of a property owners' association and to the recall of a board member.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.017 to read as follows:

Sec. 209.017. BOARD MEMBER VIOLATION OF CHAPTER OR DEDICATORY INSTRUMENT. (a) An owner may bring an action against a property owners' association for a violation of this chapter or a provision of the association's dedicatory instruments by a board member acting in the board member's official capacity. The owner may file a petition against the association with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief under this section.

(b) If the justice of the peace finds that the board member violated this chapter or a dedicatory instrument while acting individually or with other board members, the justice of the peace may grant one or more of the following remedies:

(1) a judgment ordering the property owners' association to immediately remove the board member from the board;

(2) a judgment against the property owners' association for damages incurred by the owner resulting from the

1 violation; or

2 (3) a judgment authorizing the owner to deduct the
3 amounts awarded to the owner under Subdivision (2) or Subsection
4 (c) from any future regular or special assessments payable to the
5 property owners' association.

6 (c) The prevailing party in an action under this section is
7 entitled to a judgment for court costs and reasonable attorney's
8 fees incurred by the party in connection with the action.

9 (d) On or before the 10th business day before the date an
10 owner brings an action against a property owners' association under
11 this section, the owner must send written notice to the association
12 of the owner's intent to bring the action. The notice must:

13 (1) be sent certified mail, return receipt requested,
14 or delivered by the United States Postal Service with signature
15 confirmation service to the mailing address of the association or
16 authorized representative as reflected on the most current
17 management certificate filed under Section 209.004; and

18 (2) describe with sufficient detail the alleged
19 violation.

20 (e) For the purposes of this section, "business day" means a
21 day other than Saturday, Sunday, or a state or federal holiday.

22 SECTION 2. Chapter 209, Property Code, is amended by adding
23 Section 209.00595 to read as follows:

24 Sec. 209.00595. RECALL OF BOARD MEMBERS. (a) Members of a
25 property owners' association may require a meeting of the property
26 owners' association for purposes of recalling a director pursuant
27 to Section 22.155(3), Business Organizations Code.

1 (b) At a special meeting called pursuant to Subsection (a),
2 a director of a property owners' association may be recalled and
3 removed from office under any procedure provided for by Section
4 22.211, Business Organizations Code.

5 SECTION 3. Section 209.017, Property Code, as added by this
6 Act, applies only to a violation that occurs on or after the
7 effective date of this Act. A violation that occurs before the
8 effective date of this Act is governed by the law as it existed
9 immediately before the effective date of this Act, and that law is
10 continued in effect for that purpose. For purposes of this section,
11 a violation occurred before the effective date of this Act if any
12 element of the violation occurred before that date.

13 SECTION 4. Section 209.00595, Property Code, as added by
14 this Act, applies only to an action brought on or after the
15 effective date of this Act. An action brought before the effective
16 date of this Act is governed by the law in effect at that time.

17 SECTION 5. This Act takes effect September 1, 2021.