

By: Vasut

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.

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) If a board member violates this chapter or a dedicatory instrument of the property owners' association while acting in the board member's official capacity, a member of the association 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 the 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 association member resulting from the violation; or

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

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

8           (d) On or before the 10th business day before the date a  
9 person brings an action against a property owners' association  
10 under this section, the person must send written notice to the  
11 association of the person's intent to bring the action. The notice  
12 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 the alleged violation with sufficient  
19 detail.

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. Section 209.017, Property Code, as added by this  
23 Act, applies only to a violation that occurs on or after the  
24 effective date of this Act. A violation that occurs before the  
25 effective date of this Act is governed by the law as it existed  
26 immediately before the effective date of this Act, and that law is  
27 continued in effect for that purpose. For purposes of this section,

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1 a violation occurred before the effective date of this Act if any  
2 element of the violation occurred before that date.

3 SECTION 3. This Act takes effect September 1, 2021.