

By: Jetton

H.B. No. 3777

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of ballots and proxies in a property owners' association election or vote.

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

SECTION 1. Section 82.002(c-1), Property Code, is amended to read as follows:

(c-1) Sections [Section] 82.121 and 82.1142 apply [applies] to a condominium for which the declaration was recorded before January 1, 1994.

SECTION 2. Subchapter C, Chapter 82, Property Code, is amended by adding Section 82.1142 to read as follows:

Sec. 82.1142. TABULATION OF AND ACCESS TO BALLOTS. (a) Notwithstanding any other provision of this chapter or any other law, a person who is a candidate in an association election or who is otherwise the subject of an association vote, or a person related to that person within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, may not tabulate or otherwise be given access to the ballots cast in or proxies submitted to the association for that election or vote except as provided by this section.

(b) A person other than a person described by Subsection (a) may tabulate votes in an association election or vote.

(c) A person who tabulates votes under Subsection (b) may not disclose to any other person how an individual voted or to whom

1 an individual assigned their proxy.

2 (d) Notwithstanding any other provision of this chapter or
3 any other law, only a person who tabulates votes under Subsection
4 (b) may be given access to the ballots cast in or proxies submitted
5 to the association for the election or vote.

6 (e) This section may not be construed to affect a person's
7 obligation to comply with a court order for the release of ballots
8 or other voting records.

9 (f) This section supersedes any contrary provision in a
10 dedicatory instrument.

11 SECTION 3. Section 209.00594, Property Code, is amended by
12 amending Subsections (a), (b-1), and (c) and adding Subsection (e)
13 to read as follows:

14 (a) Notwithstanding any other provision of this chapter or
15 any other law, a person who is a candidate in a property owners'
16 association election or who is otherwise the subject of an
17 association vote, or a person related to that person within the
18 third degree by consanguinity or affinity, as determined under
19 Chapter 573, Government Code, may not tabulate or otherwise be
20 given access to the ballots cast in or proxies submitted to the
21 property owners' association for that election or vote except as
22 provided by this section.

23 (b-1) A person who tabulates votes under Subsection (b) or
24 who performs a recount under Section 209.0057(c) may not disclose
25 to any other person how an individual voted or to whom an individual
26 assigned their proxy.

27 (c) Notwithstanding any other provision of this chapter or

1 any other law, only a person who tabulates votes under Subsection
2 (b) or who performs a recount under Section 209.0057(c) may be given
3 access to the ballots cast in or proxies submitted to the property
4 owners' association for the election or vote.

5 (e) This section supersedes any contrary provision in a
6 dedicatory instrument.

7 SECTION 4. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2023.