

1-1 By: Hughes S.B. No. 1668
1-2 (In the Senate - Filed March 6, 2023; March 16, 2023, read
1-3 first time and referred to Committee on Business & Commerce;
1-4 April 17, 2023, rereferred to Committee on Jurisprudence;
1-5 April 24, 2023, reported adversely, with favorable Committee
1-6 Substitute by the following vote: Yeas 5, Nays 0; April 24, 2023,
1-7 sent to printer.)

1-8 COMMITTEE VOTE

1-9		Yea	Nay	Absent	PNV
1-10	Hughes	X			
1-11	Johnson	X			
1-12	Creighton	X			
1-13	Hinojosa	X			
1-14	Middleton	X			

1-15 COMMITTEE SUBSTITUTE FOR S.B. No. 1668 By: Hughes

1-16 A BILL TO BE ENTITLED
1-17 AN ACT

1-18 relating to property owners' associations, including condominium
1-19 owners' associations.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 82.003(a), Property Code, is amended by
1-22 adding Subdivision (17-a) to read as follows:

1-23 (17-a) "Management company" means a person or entity
1-24 established or contracted to provide management or administrative
1-25 services on behalf of a unit owners' association organized under
1-26 Section 82.101.

1-27 SECTION 2. Subchapter C, Chapter 82, Property Code, is
1-28 amended by adding Section 82.1142 to read as follows:

1-29 Sec. 82.1142. ONLINE ASSOCIATION INFORMATION REQUIRED. (a)
1-30 This section only applies to:

1-31 (1) the association of a condominium composed of at
1-32 least 60 units; or

1-33 (2) an association that has contracted with a
1-34 management company.

1-35 (b) An association to which this section applies shall make
1-36 the current version of the association's dedicatory instruments
1-37 relating to the association and filed in the county deed records
1-38 available on an Internet website that is:

1-39 (1) maintained by the association or a management
1-40 company on behalf of the association; and

1-41 (2) accessible to association members.

1-42 SECTION 3. Section 82.116, Property Code, is amended by
1-43 amending Subsections (a), (b), and (c) and adding Subsections (b-1)
1-44 and (d) to read as follows:

1-45 (a) An association shall record in each county in which any
1-46 portion of the condominium is located a management certificate,
1-47 signed and acknowledged by an officer of the association, stating:

1-48 (1) the name of the condominium;

1-49 (2) the name of the association;

1-50 (3) the location of the condominium;

1-51 (4) the recording data for the declaration and any
1-52 amendments to the declaration;

1-53 (5) the mailing address of the association; ~~[, or]~~

1-54 (6) the name, ~~[and]~~ mailing address, telephone number,
1-55 and e-mail address of any management company ~~[the person or entity~~
1-56 ~~managing the association]~~;

1-57 (7) the website address of any Internet website on
1-58 which the association's dedicatory instruments are available in
1-59 accordance with Section 82.1142;

1-60 (8) the amount and description of a fee or fees charged

2-1 to a unit seller or buyer relating to a transfer of a property
 2-2 interest in a unit of the condominium; and
 2-3 (9) [~~6~~] other information the association considers
 2-4 appropriate.

2-5 (b) The association shall record an amended [~~a~~] management
 2-6 certificate not later than the 30th day after the date the
 2-7 association has notice of a change in any information in a recorded
 2-8 certificate required by Subsection (a) [~~Subdivisions (a)(1)-(5)~~].

2-9 (b-1) Not later than the seventh day after the date an
 2-10 association files a management certificate for recording under
 2-11 Subsection (a) or files an amended management certificate for
 2-12 recording under Subsection (b), the association shall
 2-13 electronically file the management certificate or amended
 2-14 management certificate with the Texas Real Estate Commission. The
 2-15 Texas Real Estate Commission shall only collect the management
 2-16 certificate and amended management certificate for the purpose of
 2-17 making the data accessible to the public through an Internet
 2-18 website.

2-19 (c) Except as provided by Subsection (d), the [~~The~~]
 2-20 association and its officers, directors, employees, and agents are
 2-21 not subject to liability to any person for delay or failure to
 2-22 record a management certificate with a county clerk's office or to
 2-23 electronically file the management certificate with the Texas Real
 2-24 Estate Commission, unless the delay or failure is wilful or caused
 2-25 by gross negligence.

2-26 (d) A unit owner is not liable for attorney's fees incurred
 2-27 by an association relating to the collection of a delinquent
 2-28 assessment against the unit owner, or interest on the delinquent
 2-29 assessment, if the attorney's fees are incurred by the association
 2-30 or the interest accrues during the period a management certificate
 2-31 is not recorded with a county clerk or electronically filed with the
 2-32 Texas Real Estate Commission, as required by this section.

2-33 SECTION 4. Section 82.157, Property Code, is amended by
 2-34 adding Subsection (f) to read as follows:

2-35 (f) An association may charge a reasonable and necessary
 2-36 fee, not to exceed \$375, to furnish a resale certificate under
 2-37 Subsection (a).

2-38 SECTION 5. Section 202.023, Property Code, is amended by
 2-39 amending Subsection (c) and adding Subsection (d) to read as
 2-40 follows:

2-41 (c) This section does not prohibit a property owners'
 2-42 association from:

2-43 (1) prohibiting the installation of a security camera
 2-44 by a property owner in a place other than the property owner's
 2-45 private property; [~~or~~]

2-46 (2) regulating the type of fencing that a property
 2-47 owner may install;

2-48 (3) prohibiting the placement of fencing that
 2-49 obstructs:

2-50 (A) a license area, as defined by a written
 2-51 license agreement or plat or other dedicatory instrument; or

2-52 (B) a sidewalk or drainage easement or drainage
 2-53 area;

2-54 (4) requiring a driveway gate to be set back at least
 2-55 18 feet from the right-of-way if the driveway intersects with a
 2-56 laned roadway, as defined by Section 541.302, Transportation Code;
 2-57 or

2-58 (5) if provided by a dedicatory instrument,
 2-59 prohibiting the installation of fencing in front of the frontmost
 2-60 building line of a dwelling.

2-61 (d) Notwithstanding Subsection (c), a property owner may
 2-62 maintain any perimeter fencing or fencing in front of a dwelling's
 2-63 frontmost building line installed or constructed before September
 2-64 1, 2023.

2-65 SECTION 6. Section 209.00505(c), Property Code, is
 2-66 redesignated as Section 209.00506, Property Code, and amended to
 2-67 read as follows:

2-68 Sec. 209.00506. ELIGIBILITY TO SERVE ON ARCHITECTURAL
 2-69 REVIEW AUTHORITY. (a) This section applies only to an

3-1 architectural review authority to which Section 209.00505 applies.

3-2 (b) Except as provided by Subsection (d), a person may not
3-3 be appointed or elected to serve on an architectural review
3-4 authority unless the person timely notifies the association of the
3-5 person's interest in serving on the authority in accordance with
3-6 Section 209.00507.

3-7 (c) Except as provided by Subsection (d), a [A] person may
3-8 not be appointed or elected to serve on an architectural review
3-9 authority if the person is:

- 3-10 (1) a current board member;
- 3-11 (2) a current board member's spouse; or
- 3-12 (3) a person residing in a current board member's
3-13 household.

3-14 (d) If a vacancy remains on the architectural review
3-15 authority after each person eligible under Subsection (c) who
3-16 timely notifies the association in accordance with Section
3-17 209.00507 is appointed or elected to the authority, the association
3-18 may appoint any person to fill the vacancy, including a person not
3-19 otherwise eligible under Subsection (c).

3-20 SECTION 7. Chapter 209, Property Code, is amended by adding
3-21 Section 209.00507 to read as follows:

3-22 Sec. 209.00507. SOLICITATION OF CANDIDATES FOR
3-23 ARCHITECTURAL REVIEW AUTHORITY. (a) This section applies only to
3-24 an architectural review authority to which Section 209.00505
3-25 applies.

3-26 (b) Not later than the 10th day before the date a property
3-27 owners' association or board takes action to elect or appoint or
3-28 meets to elect or appoint a person to serve on the architectural
3-29 review authority, the association must provide notice to the
3-30 association members soliciting persons interested in serving on the
3-31 architectural review authority.

3-32 (c) The notice required under Subsection (b) must:

- 3-33 (1) be provided:
- 3-34 (A) by mail to each owner; or
- 3-35 (B) by:
- 3-36 (i) posting the notice in a conspicuous
3-37 manner reasonably designed to provide notice to association
3-38 members:

3-39 (a) in a place located on the
3-40 association's common property or, with the property owner's
3-41 consent, on other conspicuously located privately owned property
3-42 within the subdivision; or

3-43 (b) on any Internet website
3-44 maintained by the association or other Internet media; and

3-45 (ii) sending the notice by e-mail to each
3-46 owner who has registered an e-mail address with the association;
3-47 and

3-48 (2) contain instructions for a person to notify the
3-49 association of the person's interest in serving on the
3-50 architectural review authority, including the date by which the
3-51 person's notification must be received by the association.

3-52 (d) The date by which a person must notify the association
3-53 of the person's interest in serving on the architectural review
3-54 authority may not be earlier than the 10th day after the date the
3-55 association provides the notice described by Subsection (c).

3-56 SECTION 8. A condominium unit owners' association that has
3-57 recorded a management certificate or amended management
3-58 certificate with a county clerk under Section 82.116, Property
3-59 Code, before the effective date of this Act shall electronically
3-60 file the most recently recorded management certificate or amended
3-61 management certificate with the Texas Real Estate Commission as
3-62 required by Section 82.116(b-1), Property Code, as added by this
3-63 Act, not later than March 1, 2024.

3-64 SECTION 9. This Act takes effect September 1, 2023.

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