

By: Edwards

H.B. No. 2790

A BILL TO BE ENTITLED

AN ACT

relating to property owners and property owners' associations.

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

SECTION 1. Section 209.006, Property Code, is amended to read as follows:

Sec. 209.006. NOTICE REQUIRED BEFORE ENFORCEMENT ACTION.

(a) Before a property owners' association may suspend an owner's right to use a common area, file a suit against an owner [~~other than a suit to collect a regular or special assessment or foreclose under an association's lien~~], charge an owner for property damage, or levy a fine for a violation of the restrictions or bylaws or rules of the association, the association or its agent must give written notice to the owner by certified mail, return receipt requested.

(b) The notice must:

(1) describe the violation or property damage that is the basis for the suspension action, suit, charge, or fine and state any amount due the association from the owner; and

(2) inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine, suit, charge, or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; and

(B) may request a hearing under Section 209.007 on or before the 30th day after the date the owner receives the

1 notice.

2 SECTION 2. Section 209.007(d), Property Code, is amended to
3 read as follows:

4 (d) The notice and hearing provisions of Section 209.006 and
5 this section do not apply if the association files a suit seeking a
6 temporary restraining order or temporary injunctive relief [~~or~~
7 ~~files a suit that includes foreclosure as a cause of action~~]. If a
8 suit is filed relating to a matter to which those sections apply, a
9 party to the suit may file a motion to compel mediation. The notice
10 and hearing provisions of Section 209.006 and this section do not
11 apply to a temporary suspension of a person's right to use common
12 areas if the temporary suspension is the result of a violation that
13 occurred in a common area and involved a significant and immediate
14 risk of harm to others in the subdivision. The temporary suspension
15 is effective until the board makes a final determination on the
16 suspension action after following the procedures prescribed by this
17 section.

18 SECTION 3. Section 209.009, Property Code, is amended to
19 read as follows:

20 Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN
21 CIRCUMSTANCES. (a) A property owners' association may not
22 foreclose a property owners' association's assessment lien if the
23 debt securing the lien consists solely of:

24 (1) fines assessed by the association; or

25 (2) attorney's fees incurred by the association solely
26 associated with fines assessed by the association.

27 (b) Notwithstanding any provision to the contrary in a

1 dedicatory instrument, a property owners' association may not
2 foreclose a property owners' association's assessment lien without
3 first obtaining a court judgment:

- 4 (1) foreclosing the assessment lien; and
5 (2) ordering the sale of the property to which the
6 assessment lien has attached.

7 SECTION 4. Chapter 209, Property Code, is amended by adding
8 Sections 209.013 and 209.014 to read as follows:

9 Sec. 209.013. ALTERATION TO OWNER'S LOT. A governmental
10 entity may not require an owner to reverse an alteration made to the
11 owner's lot or to any improvement on the owner's lot if the
12 alteration:

- 13 (1) has been submitted to and approved by the property
14 owners' association; and
15 (2) does not violate a law or ordinance designed to
16 protect or promote public health or safety.

17 Sec. 209.014. DISSOLUTION OF PROPERTY OWNERS' ASSOCIATION.

18 (a) An owner seeking to dissolve a property owners' association to
19 which the owner belongs may circulate a petition calling for the
20 dissolution of the property owners' association among other owners
21 belonging to the association.

22 (b) A petition circulated under Subsection (a) must
23 contain:

- 24 (1) the name of the subdivision in which the owner
25 initiating the petition lives;
26 (2) the name of the owner initiating the petition;
27 (3) the reason the owner initiating the petition seeks

1 to dissolve the property owners' association; and

2 (4) the date the owner began circulating the petition.

3 (c) If five percent of the total number of owners belonging
4 to the property owners' association sign, acknowledge, or otherwise
5 approve a petition circulated under Subsection (a) on or before the
6 first anniversary of the date the petition began circulating, the
7 owner initiating the petition shall file the petition in the real
8 property records of the county in which the subdivision is located.

9 (d) Not later than the 180th day after the date a petition is
10 filed under Subsection (a), the property owners' association that
11 is the subject of the petition shall hold an election among its
12 members in accordance with the association's bylaws to determine if
13 the property owners' association will be dissolved.

14 (e) If 60 percent of the total number of owners belonging to
15 the property owners' association vote for the dissolution of the
16 property owners' association, the property owners' association
17 shall, not later than the 180th day after the date of the election
18 dissolving the property owners' association, take all steps
19 necessary under the association's constitution or bylaws formally
20 and fully to dissolve the association.

21 (f) The property owners' association shall record the
22 results of an election held under Subsection (d) in the real
23 property records of the county in which the subdivision is located.

24 SECTION 5. This Act takes effect September 1, 2003.

25 SECTION 6. Sections 209.006, 209.007, and 209.009, Property
26 Code, as amended by this Act, apply only to a cause of action that
27 accrues on or after the effective date of this Act. A cause of

1 action that accrued before the effective date of this Act is
2 governed by the law in effect at the time the cause of action
3 accrued, and that law is continued in effect for that purpose.