

Amend CSHB 2120 (Senate committee report) by adding the following sections to the bill and renumbering subsequent sections accordingly:

SECTION __. Section 209.009, Property Code, is amended to read as follows:

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

- (1) fines assessed by the association; or
- (2) attorney's fees incurred by the association solely associated with fines assessed by the association.

(b) Unless otherwise provided in writing by the property owner, a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

- (1) any delinquent assessment;
- (2) any current assessment;
- (3) any fines assessed by the association; and
- (4) any attorney's fees incurred by the association solely associated with fines assessed by the association.

(c) Subsection (b) does not apply to a payment received by a property owners' association if:

(1) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 3.3 million or more or in a county adjacent to a county with a population of 3.3 million or more;

(2) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(3) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution.

(d) The county attorney or the district or county official

authorized to initiate civil enforcement actions in the county may sue in a court of competent jurisdiction to enjoin or abate a violation of this section by a property owners' association.

SECTION __. The amendments to Section 209.009, Property Code, apply to a payment received by a property owners' association on or after the effective date of this Act. A payment received before the effective date of this Act is governed by the law in effect when the payment was received, and the former law is continued in effect for that purpose.