

By: Casteel

H.B. No. 1072

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirements for recording property owners'
3 association management certificates in the county records.

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

5 SECTION 1. Section 209.004, Property Code, is amended by
6 amending Subsections (a) and (c) and adding Subsection (d) to read
7 as follows:

8 (a) A property owners' association shall record in each
9 county in which any portion of the residential subdivision is
10 located a management certificate, signed and acknowledged by an
11 officer or the managing agent of the association, stating:

12 (1) the name of the subdivision;

13 (2) the name of the association;

14 (3) the recording data for the subdivision;

15 (4) the recording data for the declaration;

16 (5) the mailing address of the association or the name
17 and mailing address of the person and the management firm, if
18 applicable, responsible for managing the association; and

19 (6) other information the association considers
20 appropriate.

21 (c) An officer, director, employee, or agent of a [~~The~~]
22 property owners' association is [~~and its officers, directors,~~
23 ~~employees, and agents are~~] not personally liable [~~subject to~~
24 ~~liability~~] to any person for a delay in recording or failure to

1 record a management certificate, unless the delay or failure is
2 wilful or caused by gross negligence.

3 (d) A property owners' association that fails to comply with
4 Subsections (a) and (b) may not enforce, through foreclosure or any
5 other remedy provided by law, payment of a debt consisting of a fine
6 or assessment secured by a lien against property located in the
7 residential subdivision against a property owner who is:

8 (1) a bona fide purchaser for value who acquired the
9 property before the management certificate or accurate
10 documentation was recorded as provided by this section; or

11 (2) an owner who encumbered the property before the
12 management certificate or accurate documentation was recorded as
13 provided by this section.

14 SECTION 2. The change in law made by this Act applies only
15 to a bona fide purchaser for value who acquires property or an owner
16 of property who encumbers the property before the management
17 certificate of a property owners' association or other accurate
18 documentation was recorded as provided by Section 209.004, Property
19 Code, as amended by this Act, on or after the effective date of this
20 Act. A bona fide purchaser for value who acquired property or an
21 owner of property who encumbered the property before the effective
22 date of this Act is governed by the law in effect when the property
23 was acquired or encumbered, as applicable, and the former law is
24 continued in effect for that purpose.

25 SECTION 3. This Act takes effect September 1, 2005.