

By: Harper-Brown

H.B. No. 1770

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the power of a property owners' association to levy
3 certain fines.

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

5 SECTION 1. Section 209.006(a), Property Code, is amended to
6 read as follows:

7 (a) Before a property owners' association may suspend an
8 owner's right to use a common area, file a suit against an owner
9 other than a suit to collect a regular or special assessment or
10 foreclose under an association's lien, charge an owner for property
11 damage, or levy a fine for a violation of the restrictions or bylaws
12 or rules of the association other than a violation described by
13 Section 206.0061, the association or its agent must give written
14 notice to the owner by certified mail, return receipt requested.

15 SECTION 2. Chapter 209, Property Code, is amended by adding
16 Section 209.0061 to read as follows:

17 Sec. 209.0061. NOTICE REQUIRED BEFORE LEVYING FINE FOR
18 SPEEDING. (a) This section applies only to a violation of the
19 posted speed limit on a private road in a subdivision in which a
20 property owners' association may exercise the association's
21 authority.

22 (b) Before a property owners' association may levy a fine
23 for a violation described by Subsection (a), the association or its
24 agent must give written notice to an owner alleged to have committed

1 the violation by certified mail, return receipt requested. The
2 notice must:

3 (1) describe the violation that is the basis for the
4 fine and state any amount due the association from the owner; and

5 (2) inform the owner that, except as provided by
6 Subsection (c), the owner may:

7 (A) avoid the fine by entering into a signed,
8 written agreement with the association promising to obey all posted
9 speed limits in the subdivision; and

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

12 (c) An owner who commits a violation described by Subsection
13 (a) may not avoid a fine under Subsection (b) if:

14 (1) the owner was given notice of another speeding
15 violation as required by Subsection (b) within the preceding year;
16 or

17 (2) the violation giving rise to the fine is
18 exceeding, by 10 or more miles per hour, the posted speed limit on a
19 private road in the subdivision.

20 (d) In this section, "private road" has the meaning assigned
21 by Section 541.302, Transportation Code.

22 SECTION 3. Sections 209.007(b) and (d), Property Code, are
23 amended to read as follows:

24 (b) If a hearing is to be held before a committee, the
25 notice prescribed by Section 209.006 or 209.0061(b) must state that
26 the owner has the right to appeal the committee's decision to the
27 board by written notice to the board.

1 (d) The notice and hearing provisions of Sections [~~Section~~]
2 209.006 and 209.0061 and this section do not apply if the
3 association files a suit seeking a temporary restraining order or
4 temporary injunctive relief, ~~or~~ files a suit that includes
5 foreclosure as a cause of action, or levies a fine for a violation
6 described by Section 209.0061. If a suit is filed relating to a
7 matter to which those sections apply, a party to the suit may file a
8 motion to compel mediation. The notice and hearing provisions of
9 Section 209.006 and this section do not apply to a temporary
10 suspension of a person's right to use common areas if the temporary
11 suspension is the result of a violation that occurred in a common
12 area and involved a significant and immediate risk of harm to others
13 in the subdivision. The temporary suspension is effective until
14 the board makes a final determination on the suspension action
15 after following the procedures prescribed by this section.

16 SECTION 4. The changes in law made by this Act apply only to
17 a fine that is levied on or after the effective date of this Act. A
18 fine that is levied before the effective date of this Act is covered
19 by the law in effect at the time the fine was levied, and the former
20 law is continued in effect for that purpose.

21 SECTION 5. This Act takes effect September 1, 2005.