

By: Davis of Harris

H.B. No. 2539

A BILL TO BE ENTITLED

AN ACT

relating to permitting a community association to increase regular assessments on a majority vote of affected property owners.

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

SECTION 1. The heading to Chapter 206, Property Code, is amended to read as follows:

CHAPTER 206. EXTENSION OF OR AMENDMENT TO RESTRICTIONS IMPOSING  
REGULAR ASSESSMENTS IN CERTAIN SUBDIVISIONS

SECTION 2. Sections 206.003 and 206.004, Property Code, are amended to read as follows:

Sec. 206.003. EXTENSION OF OR AMENDMENT TO RESTRICTION IMPOSING REGULAR ASSESSMENT. (a) A community association may approve and submit to a vote of the owners:

(1) an extension of a restriction imposing a regular assessment; or

(2) an amendment to an existing restriction that increases the amount of a regular assessment imposed under the restriction on residential property, commercial property, or all real property in the subdivision.

(b) The extension of a restriction imposing a regular assessment is approved if a majority of the owners in the subdivision who vote on the issue in accordance with Section 206.004 vote in favor of the extension.

~~(c)~~ An extension approved in accordance with this section

1 and Section 206.004 applies to all real property in the  
2 subdivision, including residential and commercial property.

3 (c) An amendment of a restriction under Subsection (a)(2)  
4 may be submitted to a vote of only those owners of property in the  
5 subdivision to whom the proposed increase would apply. The  
6 amendment of the restriction is approved if a majority of those  
7 owners who vote on the issue in accordance with Section 206.004 vote  
8 in favor of the amendment.

9 (d) A document certifying that a majority of the affected  
10 owners voting on the issue approved the extension of or amendment to  
11 the restriction must be recorded in the real property records of the  
12 county in which the subdivision is located.

13 Sec. 206.004. METHOD OF VOTING. (a) An extension of or  
14 amendment to a restriction submitted to a vote of the owners under  
15 Section 206.003(a) [~~that imposes a regular assessment~~] must be  
16 voted on:

17 (1) by a written ballot that states the substance of  
18 the amendment extending the restriction or increasing the regular  
19 assessment and specifies the date by which the community  
20 association must receive a ballot for the ballot to be counted; or

21 (2) at an election held by the community association  
22 [~~a meeting of the property owners in the subdivision~~].

23 (b) The community association shall provide for mailing to  
24 each owner eligible to vote in the election, as applicable:

25 (1) the ballot under Subsection (a)(1); or

26 (2) notice of the election [~~meeting~~] under Subsection  
27 (a)(2) that states the purpose of the election [~~meeting~~].

1           (c) ~~[In conjunction with a vote by ballot or at a meeting~~  
2 ~~under Subsection (a), the community association may provide for~~  
3 ~~circulation of a petition in the subdivision.~~

4           ~~[(d)]~~ The vote of multiple owners of a property may be  
5 reflected by the signature or vote of one of the owners.

6           (d) ~~[(e)]~~ The community association shall record a copy of  
7 the ballot ~~[or petition]~~ in the real property records in the county  
8 in which the subdivision is located prior to submission of the  
9 extension or amendment to a vote of the owners.

10           SECTION 3. The change in law made by this Act applies only  
11 to an amendment to an existing restriction described by Section  
12 206.003, Property Code, submitted to a vote of the property owners  
13 by a community association on or after the effective date of this  
14 Act. An amendment to a restriction submitted to a vote of the  
15 property owners by a community association before the effective  
16 date of this Act is governed by the law in effect at the time the  
17 amendment was submitted, and the former law is continued in effect  
18 for that purpose.

19           SECTION 4. This Act takes effect September 1, 2005.