

By: Truitt

H.B. No. 2402

A BILL TO BE ENTITLED

AN ACT

relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.

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

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.012 to read as follows:

Sec. 209.012. RESTRICTIVE COVENANTS GRANTING EASEMENTS TO CERTAIN PROPERTY OWNERS' ASSOCIATIONS. (a) A property owners' association may not amend a dedicatory instrument to grant the property owners' association an easement through or over an owner's lot without the consent of the owner.

(b) This section does not prohibit a property owners' association from adopting or enforcing a restriction in a dedicatory instrument that allows the property owners' association to access an owner's lot to remedy a violation of the dedicatory instrument.

SECTION 2. (a) Chapter 209, Property Code, is amended by adding Section 209.013 to read as follows:

Sec. 209.013. AUTHORITY OF ASSOCIATION TO AMEND DEDICATORY INSTRUMENT. (a) A dedicatory instrument created by a developer of a residential subdivision or by a property owners' association in which the developer has a majority of the voting rights or that the developer otherwise controls under the terms of the dedicatory instrument may not prohibit the amendment of any provision of the

1 dedicatory instrument by the property owners' association after the
2 developer no longer controls the association or the board of
3 directors.

4 (b) A provision in a dedicatory instrument that violates
5 this section is void and unenforceable.

6 (b) Except as specifically provided by a dedicatory
7 instrument in a provision that existed before the effective date of
8 this Act, the change in law made by this section applies to a
9 dedicatory instrument created before, on, or after the effective
10 date of this Act.

11 SECTION 3. Section 209.012, Property Code, as added by this
12 Act, applies only to an easement granted by a dedicatory instrument
13 on or after the effective date of this Act. An easement granted by a
14 dedicatory instrument before the effective date of this Act is
15 governed by the law in effect immediately before the effective date
16 of this Act, and the former law is continued in effect for that
17 purpose.

18 SECTION 4. This Act takes effect September 1, 2007.