

1-1 By: Truitt (Senate Sponsor - Brimer) H.B. No. 2402
1-2 (In the Senate - Received from the House May 11, 2007;
1-3 May 15, 2007, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 21, 2007, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 3,
1-6 Nays 0; May 21, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2402 By: Nichols

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the authority granted to certain property owners'
1-11 associations in dedicatory instruments and restrictive covenants.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 209, Property Code, is amended by adding
1-14 Section 209.012 to read as follows:

1-15 Sec. 209.012. RESTRICTIVE COVENANTS GRANTING EASEMENTS TO
1-16 CERTAIN PROPERTY OWNERS' ASSOCIATIONS. (a) A property owners'
1-17 association may not amend a dedicatory instrument to grant the
1-18 property owners' association an easement through or over an owner's
1-19 lot without the consent of the owner.

1-20 (b) This section does not prohibit a property owners'
1-21 association from adopting or enforcing a restriction in a
1-22 dedicatory instrument that allows the property owners' association
1-23 to access an owner's lot to remedy a violation of the dedicatory
1-24 instrument.

1-25 SECTION 2. (a) Chapter 209, Property Code, is amended by
1-26 adding Section 209.013 to read as follows:

1-27 Sec. 209.013. AUTHORITY OF ASSOCIATION TO AMEND DEDICATORY
1-28 INSTRUMENT. (a) A dedicatory instrument created by a developer of
1-29 a residential subdivision or by a property owners' association in
1-30 which the developer has a majority of the voting rights or that the
1-31 developer otherwise controls under the terms of the dedicatory
1-32 instrument may not prohibit the amendment of any provision of the
1-33 dedicatory instrument by the property owners' association after the
1-34 developer no longer controls the association or the board of
1-35 directors.

1-36 (b) A provision in a dedicatory instrument that violates
1-37 this section is void and unenforceable.

1-38 (b) Except as specifically provided by a dedicatory
1-39 instrument in a provision that existed before the effective date of
1-40 this Act, the change in law made by this section applies to a
1-41 dedicatory instrument created on or after the effective date of
1-42 this Act.

1-43 SECTION 3. Section 209.012, Property Code, as added by this
1-44 Act, applies only to an easement granted by a dedicatory instrument
1-45 on or after the effective date of this Act. An easement granted by a
1-46 dedicatory instrument before the effective date of this Act is
1-47 governed by the law in effect immediately before the effective date
1-48 of this Act, and the former law is continued in effect for that
1-49 purpose.

1-50 SECTION 4. This Act takes effect September 1, 2007.

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