

By: Davis of Harris

H.B. No. 3673

A BILL TO BE ENTITLED

AN ACT

relating to the operation of property owners' associations.

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

SECTION 1. Section 551.0015, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) [~~(1)~~] membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a residential subdivision [~~defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more~~]; and

(B) [~~(2)~~] the property owners' association has the power to make mandatory special assessments [~~for capital improvements~~] or mandatory regular assessments; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property within a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more; and

1 (B) is a corporation that:

2 (i) is governed by a board of trustees who
3 employ a general manager to execute the association's bylaws and
4 administer the business of the corporation; and

5 (ii) does not require membership in the
6 corporation by the owners of the property within the defined area
7 and

8 ~~[(3) the amount of the mandatory special or regular~~
9 ~~assessments is or has ever been based in whole or in part on the~~
10 ~~value at which the state or a local governmental body assesses the~~
11 ~~property for purposes of ad valorem taxation under Section 20,~~
12 ~~Article VIII, Texas Constitution].~~

13 (c) In Subsection (a)(1), "property owners' association,"
14 "regular assessment," "residential subdivision," and "special
15 assessment" have the meanings assigned by Section 209.002, Property
16 Code.

17 SECTION 2. Section 552.0036, Government Code, is amended to
18 read as follows:

19 Sec. 552.0036. CERTAIN PROPERTY OWNERS' ASSOCIATIONS
20 SUBJECT TO LAW. (a) In Subsection (b)(1), "property owners'
21 association," "regular assessment," "residential subdivision," and
22 "special assessment" have the meanings assigned by Section 209.002,
23 Property Code.

24 (b) A property owners' association is subject to this
25 chapter in the same manner as a governmental body:

26 (1) if:

27 (A) [~~(1)~~] membership in the property owners'

1 association is mandatory for owners or for a defined class of owners
2 of private real property in a residential subdivision [~~defined~~
3 ~~geographic area in a county with a population of 2.8 million or more~~
4 ~~or in a county adjacent to a county with a population of 2.8 million~~
5 ~~or more~~]; and

6 (B) [~~(2)~~] the property owners' association has
7 the power to make mandatory special assessments [~~for capital~~
8 ~~improvements~~] or mandatory regular assessments; or

9 (2) if the property owners' association:

10 (A) provides maintenance, preservation, and
11 architectural control of residential and commercial property
12 within a defined geographic area in a county with a population of
13 2.8 million or more or in a county adjacent to a county with a
14 population of 2.8 million or more; and

15 (B) is a corporation that:

16 (i) is governed by a board of trustees who
17 employ a general manager to execute the association's bylaws and
18 administer the business of the corporation; and

19 (ii) does not require mandatory membership
20 in the corporation by the owners of the property within the defined
21 area[, and

22 [~~(3) the amount of the mandatory special or regular~~
23 ~~assessments is or has ever been based in whole or in part on the~~
24 ~~value at which the state or a local governmental body assesses the~~
25 ~~property for purposes of ad valorem taxation under Section 20,~~
26 ~~Article VIII, Texas Constitution].~~

27 SECTION 3. Section 209.005(a), Property Code, is amended to

1 read as follows:

2 (a) A property owners' association shall make the books and
3 records of the association, including financial records,
4 reasonably available to any person requesting access to the books
5 or records [~~an owner~~] in accordance with Chapter 552, Government
6 Code [~~Section B, Article 2.23, Texas Non-Profit Corporation Act~~
7 ~~(Article 1396-2.23, Vernon's Texas Civil Statutes)]~~.

8 SECTION 4. Section 209.003(b), Property Code, is amended to
9 read as follows:

10 (b) Except as otherwise provided by this chapter, this
11 [~~This~~] chapter applies only to a property owners' association that
12 requires mandatory membership in the association for all or a
13 majority of the owners of residential property within the
14 subdivision subject to the association's dedicatory instruments.

15 SECTION 5. Chapter 209, Property Code, is amended by adding
16 Section 209.0055 to read as follows:

17 Sec. 209.0055. VOTING. (a) In addition to a property
18 owners' association described by Section 209.003(b), this section
19 applies to a property owners' association that:

20 (1) provides maintenance, preservation, and
21 architectural control of residential and commercial property
22 within a defined geographic area in a county with a population of
23 2.8 million or more or in a county adjacent to a county with a
24 population of 2.8 million or more; and

25 (2) is a corporation that:

26 (A) is governed by a board of trustees who employ
27 a general manager to execute the association's bylaws and

1 administer the business of the corporation; and

2 (B) does not require membership in the
3 corporation by the owners of the property within the defined area.

4 (b) A property owners' association may not bar a property
5 owner who does not owe the association any delinquent assessments,
6 fees, or fines from voting in an association election solely based
7 on the fact that there is a pending enforcement action against the
8 property owner.

9 SECTION 6. (a) Section 551.0015, Government Code, as
10 amended by this Act, applies only to a property owners' association
11 meeting that is held on or after September 1, 2007. A property
12 owners' association meeting that is held before September 1, 2007,
13 is governed by the law in effect at the time the meeting was held,
14 and that law is continued in effect for that purpose.

15 (b) Section 552.0036, Government Code, as amended by this
16 Act, applies only to a request for records or information made to a
17 property owners' association on or after September 1, 2007. A
18 request for records or information that is made before September 1,
19 2007, is governed by the law in effect at the time the request was
20 made, and that law is continued in effect for that purpose.

21 (c) Section 209.005, Property Code, as amended by this Act,
22 applies only to a request for access to records or information made
23 to a property owners' association on or after September 1, 2007. A
24 request for access to records or information that is made before
25 September 1, 2007, is governed by the law in effect at the time the
26 request was made, and that law is continued in effect for that
27 purpose.

1 SECTION 7. This Act takes effect September 1, 2007.