

By: Davis of Harris

H.B. No. 3674

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(a), Government Code, is amended 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 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;

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

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

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property

1 within a defined geographic area in a county with a population of
2 2.8 million or more or in a county adjacent to a county with a
3 population of 2.8 million or more; and

4 (B) is a corporation that:

5 (i) is governed by a board of trustees who
6 may employ a general manager to execute the association's bylaws
7 and administer the business of the corporation; and

8 (ii) does not require membership in the
9 corporation by the owners of the property within the defined area.

10 SECTION 2. Section 552.0036, Government Code, is amended to
11 read as follows:

12 Sec. 552.0036. CERTAIN PROPERTY OWNERS' ASSOCIATIONS
13 SUBJECT TO LAW. A property owners' association is subject to this
14 chapter in the same manner as a governmental body:

15 (1) if:

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

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

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

1 Article VIII, Texas Constitution; or

2 (2) if the property owners' association:

3 (A) provides maintenance, preservation, and
4 architectural control of residential and commercial property
5 within a defined geographic area in a county with a population of
6 2.8 million or more or in a county adjacent to a county with a
7 population of 2.8 million or more; and

8 (B) is a corporation that:

9 (i) is governed by a board of trustees who
10 may employ a general manager to execute the association's bylaws
11 and administer the business of the corporation; and

12 (ii) does not require membership in the
13 corporation by the owners of the property within the defined area.

14 SECTION 3. Section 209.005, Property Code, is amended by
15 adding Subsection (a-1) to read as follows:

16 (a-1) A property owners' association described by Section
17 552.0036(2), Government Code, shall make the books and records of
18 the association, including financial records, reasonably available
19 to any person requesting access to the books or records in
20 accordance with Chapter 552, Government Code. Subsection (a) does
21 not apply to a property owners' association to which this
22 subsection applies.

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

25 (b) Except as otherwise provided by this chapter, this
26 [This] chapter applies only to a property owners' association that
27 requires mandatory membership in the association for all or a

1 majority of the owners of residential property within the
2 subdivision subject to the association's dedicatory instruments.

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

5 Sec. 209.0055. VOTING. (a) This section applies only to a
6 property owners' association that:

7 (1) provides maintenance, preservation, and
8 architectural control of residential and commercial property
9 within a defined geographic area in a county with a population of
10 2.8 million or more or in a county adjacent to a county with a
11 population of 2.8 million or more; and

12 (2) is a corporation that:

13 (A) is governed by a board of trustees who may
14 employ a general manager to execute the association's bylaws and
15 administer the business of the corporation; and

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

18 (b) A property owners' association described by Subsection
19 (a) may not bar a property owner from voting in an association
20 election solely based on the fact that:

21 (1) there is a pending enforcement action against the
22 property owner; or

23 (2) the property owner owes the association any
24 delinquent assessments, fees, or fines.

25 SECTION 6. (a) Section 551.0015, Government Code, as
26 amended by this Act, applies only to a property owners' association
27 meeting that is held on or after September 1, 2007. A property

1 owners' association meeting that is held before September 1, 2007,
2 is governed by the law in effect at the time the meeting was held,
3 and that law is continued in effect for that purpose.

4 (b) Section 552.0036, Government Code, as amended by this
5 Act, applies only to a request for records or information made to a
6 property owners' association on or after September 1, 2007. A
7 request for records or information that is made before September 1,
8 2007, is governed by the law in effect at the time the request was
9 made, and that law is continued in effect for that purpose.

10 (c) Section 209.005, Property Code, as amended by this Act,
11 applies only to a request for access to records or information made
12 to a property owners' association on or after September 1, 2007. A
13 request for access to records or information that is made before
14 September 1, 2007, is governed by the law in effect at the time the
15 request was made, and that law is continued in effect for that
16 purpose.

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