

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 employ a general manager to execute the association's bylaws and  
7 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 employ a general manager to execute the association's bylaws and  
11 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(a), Property Code, is amended to  
15 read as follows:

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

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

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

1 subdivision subject to the association's dedicatory instruments.

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

4 Sec. 209.0055. VOTING. (a) In addition to a property  
5 owners' association described by Section 209.003(b), this section  
6 applies to a 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 employ  
14 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 may not bar a property  
19 owner who does not owe the association any delinquent assessments,  
20 fees, or fines from voting in an association election solely based  
21 on the fact that there is a pending enforcement action against the  
22 property owner.

23 SECTION 6. (a) Section 551.0015, Government Code, as  
24 amended by this Act, applies only to a property owners' association  
25 meeting that is held on or after September 1, 2007. A property  
26 owners' association meeting that is held before September 1, 2007,  
27 is governed by the law in effect at the time the meeting was held,

1 and that law is continued in effect for that purpose.

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

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

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