

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

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.

ADOPTED

MAY 23 2007

*Atty Gen*  
Secretary of the Senate

By: Brimer

A.B. No. 2402

Substitute the following for H.B. No. 2402:

By: Deby Nichols

C.S. H.B. No. 2402

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(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 on or after the effective date of  
10 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.

ADOPTED

MAY 23 2007

FLOOR AMENDMENT NO. 1

*Atty. Gen.*  
Secretary of the Senate

BY:

*Jim Brune*

- 1 Amend C.S.H.B. 2402 as follows:
- 2 (1) In Section 2(a) of the bill, in proposed Subsection
- 3 (a), Section 209.013, Property Code (committee printing page 1,
- 4 lines 32 through 35), strike "prohibit the amendment of any
- 5 provision of the dedicatory instrument by property owners'
- 6 association after the developer no longer controls the
- 7 association or the board of directors" and substitute "be
- 8 amended during the period between the time the developer loses
- 9 the majority of the voting rights or other form of control of
- 10 the property owners' association and the time a new board of
- 11 directors of the association assumes office following the loss
- 12 of the majority of the voting rights or other form of control".
- 13 (2) In Section 2(b) of the bill (committee printing page 1
- 14 line 41), strike "created on or after" and substitute "created
- 15 before, or, or after".

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 19, 2007**

**TO:** Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2402** by Truitt (Relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.), **Committee Report 2nd House, Substituted**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, JRO, DB

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**May 16, 2007**

**TO:** Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2402** by Truitt (Relating to the authority granted to certain property owners' associations in dedicatory instruments and restrictive covenants.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, JRO, DB

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 9, 2007**

**TO:** Honorable Helen Giddings, Chair, House Committee on Business & Industry

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2402** by Truitt (Relating to restrictive covenants that grant easements to certain property owners' associations.), **As Introduced**

**No fiscal implication to the State is anticipated.**

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JOB, JRO, DB