

SENATE AMENDMENTS

2nd Printing

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.

ADOPTED

MAY 23 2007

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Jackson

1 Amend H.B. No. 3674 (senate committee printing) as follows:

2 (1) In SECTION 1 of the bill, in added Subparagraph (i),
3 Paragraph (B), Subdivision (2), Subsection (a), Section 551.0015,
4 Government Code (page 1, line 37), after the semicolon, strike
5 "and".

6 (2) In SECTION 1 of the bill, in added Subparagraph (ii),
7 Paragraph (B), Subdivision (2), Subsection (a), Section 551.0015,
8 Government Code (page 1, line 39), between "defined area" and the
9 period, insert the following:

10 ; and

11 (iii) was incorporated before January 1,

12 2006

13 (3) In SECTION 2 of the bill, in added Subparagraph (i),
14 Paragraph (B), Subdivision (2), Section 552.0036, Government Code
15 (page 2, line 4), after the semicolon, strike "and".

16 (4) In SECTION 2 of the bill, in added Subparagraph (ii),
17 Paragraph (B), Subdivision (2), Section 552.0036, Government Code
18 (page 2, line 6), between "defined area" and the period, insert the
19 following:

20 ; and

21 (iii) was incorporated before January 1,

22 2006

23 (5) In SECTION 5 of the bill, in added Paragraph (A),
24 Subdivision (2), Subsection (a), Section 209.0055, Property Code
25 (page 2, line 35), after the semicolon, strike "and".

26 (6) In SECTION 5 of the bill, in added Paragraph (B),
27 Subdivision (2), Subsection (a), Section 209.0055, Property Code
28 (page 2, line 37), between "defined area" and the period, insert the
29 following:

1 i and

2 (C) was incorporated before January 1, 2006

ADOPTED

MAY 23 2007

Lataj Shaw
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Roger W. N.*

1 Amend H.B. No. 3674 (senate committee printing) as follows:

2 (1) In SECTION 3 of the bill, in the recital (page 2, line
3 8), strike "adding Subsection (a-1)" and substitute "amending
4 Subsection (a) and adding Subsections (a-1) and (c)".

5 (2) In SECTION 3 of the bill, between the recital and added
6 Subsection (a-1), Section 209.005, Property Code (page 2, between
7 lines 8 and 9), insert the following:

8 (a) A property owners' association shall make the books and
9 records of the association, including financial records,
10 reasonably available to an owner in accordance with Section B,
11 Article 2.23, Texas Non-Profit Corporation Act (Article 1396-2.23,
12 Vernon's Texas Civil Statutes), or a successor to that statute.

13 (3) In SECTION 3 of the bill, after added Subsection (a-1),
14 Section 209.005, Property Code (page 2, between lines 15 and 16),
15 insert the following:

16 (c) If a property owners' association fails to comply with
17 this section, an owner may seek one or more of the following
18 remedies:

19 (1) a court order directing the property owners'
20 association to provide the required information;

21 (2) a judgment against the property owners'
22 association for a penalty of not more than \$1,500;

23 (3) a judgment against the property owners'
24 association for court costs and attorney's fees incurred in
25 connection with seeking a remedy under this section; or

26 (4) a judgment authorizing the owner or the owner's
27 assignee to deduct the amounts awarded under Subdivisions (2) and
28 (3) from any future regular or special assessments payable to the
29 property owners' association.

1 (4) In SECTION 6 of the bill, insert the following
2 appropriately lettered subsections and reletter existing
3 subsections of that SECTION accordingly:

4 (___) Subsection (a), Section 5.006, Property Code, as
5 amended by this Act, and the repeal by this Act of Subsection (c),
6 Section 202.004, Property Code, apply only to an action filed on or
7 after the effective date of this Act. An action filed before the
8 effective date of this Act is governed by the law in effect
9 immediately before the effective date of this Act, and that law is
10 continued in effect for that purpose.

11 (___) Section 5.012, Property Code, as amended by this Act,
12 applies only to a sale of property that occurs on or after the
13 effective date of this Act. For the purposes of this section, a
14 sale of property occurs before the effective date of this Act if the
15 executory contract binding the purchaser to purchase the property
16 is executed before that date. A sale of property that occurs before
17 the effective date of this Act is governed by the law in effect
18 immediately before that date, and that law is continued in effect
19 for that purpose.

20 (___) Sections 202.008, 202.010, 209.0043, and Subsection
21 (a), Section 209.0044, Property Code, as added by this Act, apply to
22 a deed restriction enacted before, on, or after the effective date
23 of this Act.

24 (___) Sections 209.0061, 209.0062, and 209.0064, Property
25 Code, as added by this Act, apply only to an assessment or other
26 debt that becomes due on or after the effective date of this Act. An
27 assessment or other debt that becomes due before the effective date
28 of this Act is governed by the law in effect immediately before the
29 effective date of this Act, and that law is continued in effect for
30 that purpose.

31 (___) Section 209.0063, Property Code, as added by this Act,

1 applies only to a payment received by a property owners'
2 association on or after the effective date of this Act. A payment
3 received by a property owners' association before the effective
4 date of this Act is governed by the law in effect immediately before
5 the effective date of this Act, and that law is continued in effect
6 for that purpose.

7 () Section 209.0091, Property Code, as added by this Act,
8 applies only to foreclosure of a lien that attaches on or after the
9 effective date of this Act. Foreclosure of a lien that attaches
10 before the effective date of this Act is governed by the law in
11 effect immediately before that date, and that law is continued in
12 effect for that purpose.

13 (5) Insert the following appropriately numbered SECTIONS
14 and renumber existing SECTIONS of the bill accordingly:

15 SECTION _____. Subsection (a), Section 5.006, Property Code,
16 is amended to read as follows:

17 (a) In an action based on breach of a restrictive covenant
18 pertaining to real property, the court shall allow to a prevailing
19 party [~~who asserted the action~~] reasonable attorney's fees in
20 addition to the party's costs and claim.

21 SECTION _____. Section 5.012, Property Code, is amended by
22 amending Subsection (a) and adding Subsections (f) and (g) to read
23 as follows:

24 (a) A seller of residential real property that is subject to
25 membership in a property owners' association and that comprises not
26 more than one dwelling unit located in this state shall give to the
27 purchaser of the property a written notice that reads substantially
28 similar to the following:

29 NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION CONCERNING THE
30 PROPERTY AT (street address) (name of residential community)

31 As a purchaser of property in the residential community in

1 which this property is located, you are obligated to be a member of
2 a property owners' association. Restrictive covenants governing
3 the use and occupancy of the property and a dedicatory instrument
4 governing the establishment, maintenance, and operation of this
5 residential community have been or will be recorded in the Real
6 Property Records of the county in which the property is located.
7 Copies of the restrictive covenants and dedicatory instrument may
8 be obtained from the county clerk.

9 You are obligated to pay assessments to the property owners'
10 association. The amount of the assessments is subject to change.
11 Your failure to pay the assessments could result in a lien on and
12 the foreclosure of your property.

13 Section 207.003, Property Code, entitles an owner to receive
14 copies of restrictions, bylaws, and a resale certificate from a
15 property owners' association. A resale certificate contains
16 information including, but not limited to, statements specifying
17 the amount and frequency of regular assessments, the property
18 owners' association's operating budget and balance sheet, and the
19 style and cause number of lawsuits to which the property owners'
20 association is a party. These documents must be made available to
21 you by the seller on your request.

22 Date: _____
23 _____
24 Signature of Purchaser

25 (f) On the purchaser's request for a resale certificate from
26 the seller, the seller shall:

27 (1) promptly deliver a copy of a current resale
28 certificate if one has been issued for the property under Chapter
29 207; or

30 (2) if the seller does not have a current resale
31 certificate:

(A) request the property owners' association or

1 its agent to issue a resale certificate under Chapter 207; and

2 (B) promptly deliver a copy of the resale
3 certificate to the purchaser on receipt of the resale certificate
4 from the property owners' association or its agent.

5 (g) The seller or the purchaser, as agreed to by the
6 parties, shall pay the fee to the property owners' association or
7 its agent for issuing the resale certificate under Chapter 207.

8 SECTION ____ Chapter 202, Property Code, is amended by
9 adding Sections 202.008 and 202.010 to read as follows:

10 Sec. 202.008. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In
11 this section, "development period" means a period stated in a
12 declaration during which a declarant reserves:

13 (1) a right to facilitate the development,
14 construction, and marketing of the subdivision;

15 (2) a right to direct the size, shape, and composition
16 of the subdivision; or

17 (3) any other right customarily reserved by a
18 declarant for the benefit of developers and builders.

19 (b) To the extent a restrictive covenant provides a right of
20 first refusal for the sale or lease of a residential unit or
21 residential lot in favor of the property owners' association or the
22 association's members, the covenant is void.

23 (c) This section does not apply to a restrictive covenant
24 that provides a right of first refusal in favor of a developer or
25 builder during the development period.

26 Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In
27 this section, "solar energy device" has the meaning assigned by
28 Section 171.107, Tax Code.

29 (b) Except as otherwise provided by this section, a property
30 owners' association may not include or enforce a provision in a
31 dedicatory instrument that prohibits or restricts a property owner

1 from installing a solar energy device.

2 (c) A provision that violates Subsection (b) is void.

3 (d) This section does not prohibit the inclusion or
4 enforcement of a provision in a dedicatory instrument that
5 prohibits a solar energy device that:

6 (1) threatens the public health or safety;

7 (2) violates a law;

8 (3) is located on property owned or maintained by the
9 property owners' association;

10 (4) is located on property owned in common by the
11 members of the property owners' association;

12 (5) is located in an area on the property owner's
13 property other than:

14 (A) on the roof of the home; or

15 (B) in a fenced yard or patio maintained by the
16 property owner; or

17 (6) is mounted on a device that is taller or more
18 visually obtrusive than is necessary for the solar energy device to
19 operate at not less than 90 percent of its rated efficiency.

20 SECTION ____ . Subsection (b), Section 207.003, Property
21 Code, is amended to read as follows:

22 (b) A resale certificate under Subsection (a) must contain:

23 (1) a statement of any right of first refusal or other
24 restraint contained in the restrictions or restrictive covenants
25 that restricts the owner's right to transfer the owner's property;

26 (2) the frequency and amount of any regular
27 assessments;

28 (3) the amount of any special assessment that is due
29 after the date the resale certificate is prepared;

30 (4) the total of all amounts due and unpaid to the
31 property owners' association that are attributable to the owner's

1 property;

2 (5) capital expenditures, if any, approved by the
3 property owners' association for the property owners' association's
4 current fiscal year;

5 (6) the amount of reserves, if any, for capital
6 expenditures;

7 (7) the property owners' association's current
8 operating budget and balance sheet;

9 (8) the total of any unsatisfied judgments against the
10 property owners' association;

11 (9) the style and cause number of any pending lawsuit
12 in which the property owners' association is a party, other than a
13 lawsuit relating to unpaid property taxes of an individual member
14 of the association [~~defendant~~];

15 (10) a copy of a certificate of insurance showing the
16 property owners' association's property and liability insurance
17 relating to the common areas and common facilities;

18 (11) a description of any conditions on the owner's
19 property that the property owners' association board has actual
20 knowledge are in violation of the restrictions applying to the
21 subdivision or the bylaws or rules of the property owners'
22 association;

23 (12) a summary or copy of notices received by the
24 property owners' association from any governmental authority
25 regarding health or housing code violations existing on the
26 preparation date of the certificate relating to the owner's
27 property or any common areas or common facilities owned or leased by
28 the property owners' association;

29 (13) the amount of any administrative transfer fee
30 charged by the property owners' association for a change of
31 ownership of property in the subdivision;

1 (14) the name, mailing address, and telephone number
2 of the property owners' association's managing agent, if any; [~~and~~]

3 (15) a statement indicating whether the restrictions
4 allow foreclosure of a property owners' association's lien on the
5 owner's property for failure to pay assessments; and

6 (16) a statement of all fees associated with the
7 transfer of ownership, including a description of each fee, to whom
8 each fee is paid, and the amount of each fee.

9 SECTION ____ Chapter 209, Property Code, is amended by
10 adding Sections 209.0041 through 209.0044 to read as follows:

11 Sec. 209.0041. AMENDMENT OF DECLARATION. (a) This section
12 applies only to a residential subdivision in which property owners
13 are subject to mandatory regular or special assessments.

14 (b) This section applies to a declaration regardless of the
15 date on which the declaration was created.

16 (c) This section does not apply to the amendment of a
17 declaration during a development period, as defined by Section
18 202.008.

19 (d) To the extent of any conflict with another provision of
20 this title, this section prevails.

21 (e) Unless a declaration creating a residential subdivision
22 provides a lower percentage, the declaration and any subsequently
23 enacted declarations may be amended on a vote of 67 percent of the
24 total votes allocated to owners of property in the subdivision. If
25 the declaration provides a lower percentage, the percentage in the
26 declaration controls.

27 (f) All ballots cast in an election that results in the
28 amendment of a declaration under this section shall be deposited in
29 the county clerk's office of each county in which the declaration is
30 recorded and are subject to inspection by the public. A county
31 clerk shall retain ballots deposited with the clerk under this

1 subsection until the fourth anniversary of the date the ballots
2 were deposited. A county clerk may not charge a fee for the deposit
3 of ballots under this subsection.

4 Sec. 209.0042. TABULATION OF VOTES. (a) In any matter
5 subject to a vote of the members of the property owners'
6 association, the association shall utilize a neutral third party to
7 tabulate the votes:

8 (1) if the association schedules the election with
9 less than 30 days' notice; or

10 (2) for an election scheduled with notice of 30 days or
11 more, if the association receives written requests from at least 25
12 percent of the owners of property in the subdivision or 50 owners of
13 property in the subdivision, whichever is less:

14 (A) at least 10 days before the date of the
15 meeting at which the vote will be taken; or

16 (B) if no meeting is to be held, at least 10 days
17 before the deadline to cast a vote.

18 (b) For the purposes of this section, a person is considered
19 a neutral third party if the person is anyone other than a candidate
20 for office, a current or former member or officer of the board of
21 directors, an attorney who represents the property owners'
22 association, or a representative of the association's management
23 company, or a person related to one of those persons within the
24 second degree by consanguinity or affinity, as determined under
25 Chapter 573, Government Code.

26 (c) This section does not apply to a property owners'
27 association if:

28 (1) membership in the property owners' association is
29 mandatory for owners or for a defined class of owners of private
30 real property in a defined geographic area in a county with a
31 population of 2.8 million or more or in a county adjacent to a

1 county with a population of 2.8 million or more;

2 (2) the property owners' association has the power to
3 make mandatory special assessments for capital improvements or
4 mandatory regular assessments; and

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

10 Sec. 209.0043. RIGHT TO VOTE. A provision of a dedicatory
11 instrument that would disqualify a property owner from voting in an
12 association election of board members or on any matter concerning
13 the rights or responsibilities of the owner is void.

14 Sec. 209.0044. BOARD MEMBERSHIP. (a) A provision of a
15 dedicatory instrument that restricts a property owner's right to
16 run for a position on the board of the property owners' association
17 is void.

18 (b) A property owners' association board may make
19 information available to members of the association regarding a
20 candidate for a position on the board regarding:

21 (1) any amount owed to the association by the
22 candidate that is six months or more overdue;

23 (2) any violation of a restrictive covenant of which
24 notice was delivered to a board candidate under Section 209.006
25 more than 30 days before the date of the election; and

26 (3) any lawsuits to which both the property owners'
27 association or any of its directors or agents and the board
28 candidate are a party.

29 SECTION ____ . Section 209.006, Property Code, is amended by
30 amending Subsection (b) and adding Subsections (c) and (d) to read
31 as follows:

1 (b) The notice must:

2 (1) describe the violation or property damage that is
3 the basis for the suspension action, charge, or fine and state any
4 amount due the association from the owner; ~~and~~

5 (2) inform the owner that the owner:

6 (A) is entitled to a reasonable period to cure
7 the violation and avoid the fine or suspension unless the owner was
8 given notice and a reasonable opportunity to cure a similar
9 violation within the preceding six months; and

10 (B) may request a hearing under Section 209.007
11 on or before the 30th day after the date notice was delivered to the
12 owner; and

13 (3) specify a date certain by which the owner must cure
14 the violation ~~[receives the notice]~~.

15 (c) Notice under Subsection (b) must be personally
16 delivered, sent by certified mail with a return receipt requested,
17 or delivered by the United States Postal Service with signature
18 confirmation service to the owner at the owner's last known address
19 as shown on the association's records.

20 (d) The date specified in the notice under Subsection (b)(3)
21 must provide a reasonable period for the owner to cure the
22 violation.

23 SECTION _____. Chapter 209, Property Code, is amended by
24 adding Sections 209.0061 through 209.0064 and Section 209.0091 to
25 read as follows:

26 Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed
27 by the property owners' association must be reasonable in the
28 context of the nature, frequency, and effect of the violation. If
29 the association allows fines for a continuing violation to
30 accumulate against a lot or an owner, the association must
31 establish a maximum fine amount for a continuing violation, at

1 which point the total fine amount is capped.

2 (b) If a lot occupant other than the owner violates a
3 provision of the dedicatory instrument, the property owners'
4 association, in addition to exercising any of the association's
5 powers against the owner, may assess a fine directly against the
6 nonowner occupant in the same manner as provided for an owner but
7 may not require payment from both the owner and a nonowner occupant
8 for the same violation.

9 (c) Sections 209.006 and 209.007 apply to a nonowner
10 occupant.

11 Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN
12 ASSESSMENTS. (a) A property owners' association shall adopt
13 reasonable guidelines to establish an alternative payment schedule
14 by which an owner may make partial payments to the property owners'
15 association for delinquent regular or special assessments or any
16 other amount owed to the association.

17 (b) A property owners' association is not required to allow
18 a payment plan that extends more than 12 months from the date of the
19 owner's request for a payment plan or to enter into a payment plan
20 with an owner who failed to honor the terms of a previous payment
21 plan.

22 (c) The property owners' association shall file the
23 association's guidelines under this section in the real property
24 records of each county in which the subdivision is located.

25 Sec. 209.0063. PRIORITY OF PAYMENTS. Unless otherwise
26 provided in a writing by the property owner, a payment received by a
27 property owners' association from the owner shall be applied to the
28 owner's debt in the following order of priority:

29 (1) any delinquent assessment;

30 (2) any current assessment;

31 (3) any attorney's fees incurred by the association

1 associated solely with assessments or any other charge that could
2 provide the basis for foreclosure;

3 (4) any fines assessed by the association;

4 (5) any attorney's fees incurred by the association
5 that are not subject to Subdivision (3); and

6 (6) any other amount owed to the association.

7 Sec. 209.0064. COLLECTIONS. A property owners' association
8 must bring suit or otherwise initiate against an owner a collection
9 action authorized by the dedicatory instruments or other law on or
10 before the 10th anniversary of the date on which the cause of action
11 for collection of the debt accrues. Section 16.004, Civil Practice
12 and Remedies Code, does not apply to the collection of a debt owed
13 by an owner to a property owners' association.

14 Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except
15 as provided by Subsection (b), a property owners' association may
16 not foreclose a property owners' association's assessment lien
17 unless the association first obtains a court judgment foreclosing
18 the lien and providing for issuance of an order of sale.

19 (b) Judicial foreclosure is not required under this section
20 if the owner of the property that is subject to foreclosure agrees
21 in writing to waive judicial foreclosure under this section.

22 SECTION _____. Subsection (a), Section 209.010, Property
23 Code, is amended to read as follows:

24 (a) A property owners' association that conducts a
25 foreclosure sale of an owner's lot must send to the lot owner not
26 later than the 30th day after the date of the foreclosure sale:

27 (1) a written notice stating the date and time the sale
28 occurred and informing the lot owner of the owner's right to redeem
29 the property under Section 209.011; and

30 (2) a copy of Section 209.011.

31 SECTION _____. Subsection (a), Section 211.002, Property

1 Code, is amended to read as follows:

2 (a) This chapter applies only to a residential real estate
3 subdivision or any unit or parcel of a subdivision to which another
4 chapter in this title that provides a procedure under which a
5 subdivision's restrictions may be amended does not apply [~~located~~
6 ~~in whole or in part within an unincorporated area of a county if the~~
7 ~~county has a population of less than 65,000~~].

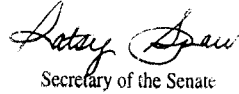
8 SECTION ____ . Subsection (c), Section 202.004, Property
9 Code, is repealed.

ADOPTED

FLOOR AMENDMENT NO. 3

MAY 23 2007

BY:



Secretary of the Senate

1 Amend C.S.H.B. No. 3674 by adding the following
2 appropriately numbered SECTIONS and renumbering subsequent
3 SECTIONS accordingly:

4 SECTION __. Section 201.001(b), Property Code, is amended
5 to read as follows:

6 (b) The provisions of this chapter relating to extension
7 of the term of, renewal of, or creation of restrictions do not
8 apply to a subdivision if, by the express terms of the
9 instrument creating existing restrictions, some or all of the
10 restrictions affecting the real property within the subdivision
11 provide:

12 (1) for automatic extensions of the term of the
13 restrictions for an indefinite number of successive specified
14 periods of at least 10 years subject to a right of waiver or
15 termination, in whole or in part, by a specified percentage of
16 less than 50 percent plus one of the owners of real property
17 interests in the subdivision, as set forth in the instrument
18 creating the restrictions; or

19 (2) for an indefinite number of successive extensions
20 of at least 10 years of the term of the restrictions by written
21 and filed agreement of a specified percentage of less than 50
22 percent plus one of the owners of real property interests in the
23 subdivision, as authorized by the instrument creating the
24 restrictions.

25 SECTION __. Section 201.004(a), Property Code, is amended
26 to read as follows:

27 (a) A petition may be filed under this chapter to:

28 (1) extend or renew an unexpired restriction;

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- 1 (2) [~~to~~] create a restriction;
- 2 (3) [~~or to~~] add to or modify an existing
- 3 restriction; or
- 4 (4) modify an existing provision in an instrument
- 5 creating a restriction that provides for extension of those
- 6 restrictions.

7 SECTION __. Section 204.003, Property Code, is amended to
8 read as follows:

9 Sec. 204.003. APPLICATION OF PROVISIONS OF RESTRICTIVE
10 COVENANTS [~~PREVAIL~~] IN CERTAIN CIRCUMSTANCES. (a) An express
11 designation in a document creating restrictions applicable to a
12 residential real estate subdivision that provides for the
13 extension of, addition to, or modification of existing
14 restrictions by a designated number of owners of real property
15 in the subdivision prevails over the provisions of this chapter.

16 (b) A document creating restrictions that provides for the
17 extension or renewal of restrictions and does not provide for
18 modification or amendment of restrictions may be modified under
19 this chapter, including modifying the provision that provides
20 for extension or renewal of the restrictions.

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: HB3674 by Davis, John (Relating to the operation of property owners' associations.), **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 19, 2007

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

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

IN RE: HB3674 by Davis, John (Relating to the operation of property owners' associations.),
Committee Report 1st 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

April 9, 2007

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

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

IN RE: HB3674 by Davis, John (Relating to the operation of 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

