

House Bill 2402
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 dedicatory instrument by the property owners' association after the developer no longer controls the association or the board of directors.

SENATE VERSION

Same as House version.

CONFERENCE

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 be amended during the period between the time the developer loses the majority of the voting rights or other form of control of the property owners' association and the time a new board of directors of the association assumes office following the loss of the majority of the

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(b) A provision in a dedicatory instrument that violates this section is void and unenforceable.

(b) Except as specifically provided by a dedicatory instrument in a provision that existed before the effective date of this Act, the change in law made by this section applies to a dedicatory instrument created before, on, or after the effective date of this Act.

SECTION 3. Section 209.012, Property Code, as added by this Act, applies only to an easement granted by a dedicatory instrument on or after the effective date of this Act. An easement granted by a dedicatory instrument before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2007.

SENATE VERSION

voting rights or other form of control.

(b) A provision in a dedicatory instrument that violates this section is void and unenforceable.

(b) Except as specifically provided by a dedicatory instrument in a provision that existed before the effective date of this Act, the change in law made by this section applies to a dedicatory instrument created before, on, or after the effective date of this Act.

Same as House version.

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CONFERENCE