

Amend Amendment No. 1 by Solomons to **CSHB 1976** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 82.102, Property Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Unless otherwise provided by the declaration, the association, acting through its board, may:

- (1) adopt and amend bylaws;
- (2) adopt and amend budgets for revenues, expenditures, and reserves, and collect assessments for common expenses from unit owners;
- (3) hire and terminate managing agents and other employees, agents, and independent contractors;
- (4) institute, defend, intervene in, settle, or compromise litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;
- (5) make contracts and incur liabilities relating to the operation of the condominium;
- (6) regulate the use, maintenance, repair, replacement, modification, and appearance of the condominium;
- (7) adopt and amend rules regulating the use, occupancy, leasing or sale, maintenance, repair, modification, and appearance of units and common elements, to the extent the regulated actions affect common elements or other units;
- (8) cause additional improvements to be made as a part of the common elements;
- (9) acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, except common elements of the condominium;
- (10) grant easements, leases, licenses, and concessions through or over the common elements;
- (11) impose and receive payments, fees, or charges for the use, rental, or operation of the common elements and for services provided to unit owners;
- (12) impose interest and late charges for late

payments of assessments, returned check charges, and, if notice and an opportunity to be heard are given in accordance with Subsection (d), reasonable fines for violations of the declaration, bylaws, and rules of the association;

(13) adopt and amend rules regulating the collection of delinquent assessments and the application of payments;

(14) adopt and amend rules regulating the termination of utility service to a unit, the owner of which is delinquent in the payment of an assessment that is used, in whole or in part, to pay the cost of that utility;

(15) impose reasonable charges for preparing, recording, or copying declaration amendments, resale certificates, or statements of unpaid assessments;

(16) enter a unit for bona fide emergency purposes when conditions present an imminent risk of harm or damage to the common elements, another unit, or the occupants;

(17) ~~[assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration so provides,~~

~~[(18)]~~ suspend the voting privileges of or the use of certain general common elements by an owner delinquent for more than 30 days in the payment of assessments;

(18) ~~[(19)]~~ purchase insurance and fidelity bonds it considers appropriate or necessary;

(19) ~~[(20)]~~ exercise any other powers conferred by the declaration or bylaws;

(20) ~~[(21)]~~ exercise any other powers that may be exercised in this state by a corporation of the same type as the association; and

(21) ~~[(22)]~~ exercise any other powers necessary and proper for the government and operation of the association.

(f) The association by resolution of the board of directors may borrow money unless prohibited by the declaration, articles of incorporation, bylaws, rules, or other restrictions. If the board of directors issues a resolution under this subsection, the association may assign the association's right to future income, including the right to receive common expense assessments and

assign the association's lien rights, as collateral for the loan authorized by the resolution. The association shall comply with any member approval requirement in the association's declaration, articles of incorporation, bylaws, rules, or other restrictions for borrowing money, except that not more than 67 percent of all outstanding votes are required to approve an authorization to borrow money.

SECTION \_\_\_\_\_. Sections 82.111(c) and (i), Property Code, are amended to read as follows:

(c) If the insurance described by Subsections (a) and (b) is not reasonably available, the association shall cause notice of that fact to be delivered or mailed to all unit owners and lienholders. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance the board considers appropriate to protect the condominium, the association, or the unit owners. Insurance policies carried under Subsection (a) may provide for commercially reasonable deductibles as the board considers appropriate or necessary. This section does not affect the right of a holder of a mortgage on a unit to require a unit owner to acquire insurance in addition to that provided by the association.

(i) Any portion of the condominium for which insurance is required that is damaged or destroyed shall be promptly repaired or replaced by the association unless the condominium is terminated, repair or replacement would be illegal under any state or local health or safety statute or ordinance, or at least 80 percent of the unit owners, including each owner of a unit or assigned limited common element that will not be rebuilt or repaired, vote to not rebuild. A vote to not rebuild does not increase an insurer's liability to loss payment obligation under a policy, and the vote does not cause a presumption of total loss. The cost of repair or replacement in excess of the insurance proceeds and reserves is a common expense. Costs of repair or replacement incurred before any insurance proceeds are available, or that are within the association's deductible, shall be paid as determined by resolution of the board of directors of the association, or, if the board does not approve a resolution, the costs are a common expense. A

resolution regarding payment of costs under this subsection is considered a dedicatory instrument and must be recorded in each location in which the declaration is recorded. If the entire condominium is not repaired or replaced, any insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the condominium, the insurance proceeds attributable to units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were assigned, or to their mortgagees, as their interests may appear, and the remainder of the proceeds shall be distributed to all the unit owners as their interests may appear. If the unit owners vote to not rebuild any unit, that unit's allocated interests shall be automatically reallocated on the vote as if the unit had been condemned, and the association shall prepare, execute, and record an amendment to the declaration reflecting the reallocation. Section 82.068 governs the distribution of insurance proceeds if the condominium is terminated.

SECTION \_\_\_\_\_. Section 82.113(g), Property Code, is amended to read as follows:

(g) The owner of a unit [~~used for residential purposes and~~ purchased [~~by an association~~] at a foreclosure sale of the association's lien for assessments may redeem the unit not later than the 90th day after the date of the foreclosure sale. If the association is the purchaser [~~To redeem the unit~~], the owner must pay to the association to redeem the unit all amounts due the association at the time of the foreclosure sale, interest from the date of foreclosure sale to the date of redemption at the rate provided by the declaration for delinquent assessments, reasonable attorney's fees and costs incurred by the association in foreclosing the lien, any assessment levied against the unit by the association after the foreclosure sale, and any reasonable cost incurred by the association as owner of the unit, including costs of maintenance and leasing. If a party other than the association is the purchaser, the redeeming owner must pay to the purchaser of the unit at the foreclosure sale an amount equal to the amount bid at

the sale, interest on the bid amount computed from the date of the foreclosure sale to the date of redemption at the rate of six percent, any assessment paid by the purchaser after the date of foreclosure, and any reasonable costs incurred by the purchaser as the owner of the unit, including costs of maintenance and leasing. The redeeming owner must also pay to the association all assessments that are due as of the date of the redemption and reasonable attorney's fees and costs incurred by the association in foreclosing the lien. On redemption, the purchaser of the unit at the foreclosure sale [~~association~~] shall execute a deed with no warranty to the redeeming unit owner. The exercise of the right of redemption is not effective against a subsequent purchaser or lender for value without notice of the redemption after the redemption period expires unless the redeeming unit owner records the deed from the purchaser of the unit at the foreclosure sale [~~association~~] or an affidavit stating that the owner has exercised the right of redemption. A unit that has been redeemed remains subject to all liens and encumbrances on the unit before foreclosure. All rents and other income collected from the unit by the purchaser of the unit at the foreclosure sale [~~association~~] from the date of foreclosure sale to the date of redemption belong to the purchaser of the unit at the foreclosure sale [~~association~~], but the rents and income shall be credited against the redemption amount. The purchaser of [~~An association purchasing~~] a unit at a sale foreclosing an association's assessment [~~its~~] lien may not transfer ownership of the unit during the redemption period to a person other than a redeeming owner.

SECTION \_\_\_\_\_. (a) Section 82.111(i), Property Code, as amended by this Act, applies only to payment of costs incurred on or after the effective date of this Act. Payment of costs incurred before the effective date of this Act are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 82.113(g), Property Code, as amended by this Act, applies only to a condominium unit sold at a foreclosure sale on or after the effective date of this Act. A unit sold at a foreclosure sale before the effective date of this Act is governed

by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.