

By: England

H.B. No. 2394

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the requirements for recording a property owners'  
3 association management certificate.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 209.004, Property Code, is amended by  
6 amending Subsections (a) and (c) and adding Subsections (d), (e),  
7 and (f) to read as follows:

8 (a) A property owners' association shall record in each  
9 county in which any portion of the residential subdivision is  
10 located a management certificate, signed and acknowledged by an  
11 officer or the managing agent of the association, stating:

- 12 (1) the name of the subdivision;  
13 (2) the name of the association;  
14 (3) the recording data for the subdivision;  
15 (4) the recording data for the declaration;  
16 (5) the name and mailing address of the association;  
17 (6) [~~or~~] the name and mailing address of the person  
18 managing the association or the association's designated  
19 representative; and  
20 (7) [~~(6)~~] other information the association considers  
21 appropriate.

22 (c) Except as provided under Subsections (d) and (e), the  
23 [~~The~~] property owners' association and its officers, directors,  
24 employees, and agents are not subject to liability to any person for

1 a delay in recording or failure to record a management certificate,  
2 unless the delay or failure is wilful or caused by gross negligence.

3 (d) If a property owners' association fails to record a  
4 management certificate or an amended management certificate under  
5 this section, the purchaser, lender, or title insurance company or  
6 its agent in a transaction involving property in the property  
7 owners' association is not liable to the property owners'  
8 association for:

9 (1) any amount due to the association on the date of a  
10 transfer to a bona fide purchaser; and

11 (2) any debt to or claim of the association that  
12 accrued before the date of a transfer to a bona fide purchaser.

13 (e) A lien of a property owners' association that fails to  
14 file a management certificate or an amended management certificate  
15 under this section to secure an amount due on the effective date of  
16 a transfer to a bona fide purchaser is enforceable only for an  
17 amount incurred after the effective date of sale.

18 (f) For purposes of this section, "bona fide purchaser"  
19 means:

20 (1) a person who pays valuable consideration without  
21 notice of outstanding rights of others and acts in good faith; or

22 (2) a third-party lender who acquires a security  
23 interest in the property under a deed of trust.

24 SECTION 2. The change in law made by this Act applies only  
25 to a transfer of an interest to a bona fide purchaser on or after the  
26 effective date of this Act. A transfer of an interest to a bona fide  
27 purchaser before the effective date of this Act is covered by the

1 law in effect when the transaction occurred, and the former law is  
2 continued in effect for that purpose.

3 SECTION 3. This Act takes effect September 1, 2009.