

By: Farrar

H.B. No. 3319

A BILL TO BE ENTITLED

AN ACT

relating to the creation of property owners' associations and the extension of, addition to, or modification of deed restrictions in certain areas.

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

SECTION 1. Section 204.001, Property Code, is amended by adding Subdivision (5) to read as follows:

(5) "Property owners' association" means an entity described as a property owners' association by Section 204.004.

SECTION 2. Section 204.004, Property Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A property owners' association is a designated representative of the owners of property in a subdivision and may be referred to as a "homeowners association," "community association," "civic association," "civic club," "association," "committee," or similar term contained in the restrictions. The membership of the association consists of the owners of property within the subdivision. For the purposes of this section, a reference to the property owners' association in the dedicatory instrument affecting the subdivision is a sufficient designation of the association as a representative of the owners of property in a subdivision. An "architect control committee," "architectural review committee," or similar committee primarily focused on

1 architectural issues is not a property owners' association for the
2 purposes of this section.

3 (d) The association is not required to collect mandatory
4 regular or special assessments, but:

5 (1) membership in the association must be open to all
6 owners in the subdivision; and

7 (2) all owners must have equivalent voting rights.

8 SECTION 3. Section 204.006, Property Code, is amended by
9 amending Subsection (a) and adding Subsections (d), (e), and (f) to
10 read as follows:

11 (a) If existing restrictions applicable to a subdivision do
12 not provide for a property owners' association and require approval
13 of more than 60 percent of the owners to add to or modify the
14 original dedicating instrument, a petition to add to or modify the
15 existing restrictions for the ~~[sole]~~ purpose of creating and
16 operating a property owners' association for ~~[with mandatory~~
17 ~~membership, mandatory regular or special assessments, and~~
18 ~~equivalent voting rights for each of the owners in]~~ the subdivision
19 is effective if:

20 (1) a petition committee has been formed as prescribed
21 by Section 201.005;

22 (2) the petition is approved by the owners, excluding
23 lienholders, contract purchasers, and the owners of mineral
24 interests, of at least 60 percent of the real property in the
25 subdivision; and

26 (3) the procedure employed in the circulation and
27 approval of the petition to add to or amend the existing

1 restrictions for the specified purpose complies with the
2 requirements of this chapter.

3 (d) Membership in a property owners' association created
4 under this section must be mandatory for all owners in the
5 subdivision, and all owners must have equivalent voting rights.
6 The association may collect mandatory regular or special
7 assessments. The petition creating the property owners'
8 association may limit the association's powers or term of existence
9 by including a statement of the limitation in the petition,
10 including:

11 (1) a statement that the association:

12 (A) is denied any or all of the rights granted by
13 Section 204.010;

14 (B) is created for the sole purpose of enforcing
15 restrictions in the subdivision and modifying those restrictions in
16 accordance with this chapter; or

17 (C) has a specified term of existence; or

18 (2) any other statement of a limitation to which the
19 property owners' association is subject.

20 (e) A single petition may:

21 (1) create the property owners' association;

22 (2) include a direction that the property owners'
23 association approve and circulate a petition under Section 204.005;
24 and

25 (3) provide for the extension of, addition to, or
26 modification of existing restrictions in the subdivision.

27 (f) A petition under Subsection (e) must be approved by the

1 owners, excluding lienholders, contract purchasers, and the owners
2 of mineral interests, of at least 75 percent of the real property in
3 the subdivision or a smaller percentage as required by the original
4 dedicatory instrument. A petition approved in accordance with this
5 section satisfies the approval requirement of Section 204.005.

6 SECTION 4. Chapter 204, Property Code, is amended by adding
7 Section 204.012 to read as follows:

8 Sec. 204.012. RATIFICATION. An attempt before September 1,
9 2009, to extend, add to, or modify a restriction or create a
10 property owners' association under this chapter that did not
11 satisfy the requirements of the chapter as they existed at the time
12 the attempt was made is ratified on September 1, 2009, if the
13 attempt would satisfy the requirements of the chapter as they
14 existed on September 1, 2009.

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2009.