

A BILL TO BE ENTITLED

AN ACT

relating to the availability of a property owners' association's books and records.

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

SECTION 1. Section 209.005, Property Code, is amended by amending Subsection (a) and adding Subsections (c) through (k) to read as follows:

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

(c) In addition to the requirements of Subsection (a), and except as provided by this section, a property owners' association shall maintain a copy of the association's books and records, including financial records and invoices, in a building:

(1) staffed during normal business hours;

(2) in which the books and records are appropriately stored; and

(3) that is:

(A) accessible to members of the association during normal business hours; and

(B) located on property commonly owned by the association within the boundaries of the subdivision governed by

1 the association.

2 (d) Books and records stored in a building described by  
3 Subsection (c) shall be made available within three business days  
4 of a request by a member of the association.

5 (e) If a building described by Subsection (c) does not exist  
6 on property described by Subsection (c), the property owners'  
7 association shall make the books and records available to the  
8 requesting party within a reasonable time after the property  
9 owners' association receives the request, in accordance with  
10 Subsections (f) and (g).

11 (f) A reasonable time for providing information requested  
12 under Subsection (a) is considered to be 10 business days after the  
13 date the property owners' association receives a request, except as  
14 otherwise provided by this section.

15 (g) If the property owners' association is unable to produce  
16 a requested book or record on or before the 10th business day after  
17 the date the information is requested, the property owners'  
18 association must provide to the requestor, not later than the 10th  
19 business day after the date the property owners' association  
20 receives the request, notice that:

21 (1) informs the requestor that the property owners'  
22 association is unable to produce the information on or before the  
23 10th business day after the date of the request; and

24 (2) states a date by which the information will be  
25 available for inspection that is reasonable in light of:

26 (A) the nature, age, and quantity of records  
27 requested; and

1           (B) the staffing and other resources available to  
2 the property owners' association.

3           (h) A property owners' association shall make books and  
4 records requested under this section available to the requestor in  
5 one or more of the following formats, as specified by the requestor:

6           (1) an electronic format:

7           (A) delivered to an electronic mail address  
8 provided by the requestor; or

9           (B) delivered in a disc or other standard  
10 electronic format:

11           (i) to the mailing address of the  
12 requestor; or

13           (ii) if the requesting party does not  
14 provide a mailing address, to the address of the requestor's  
15 property in the subdivision; or

16           (2) a hard-copy format, with the records being made  
17 available for review by the requesting party at a location not  
18 farther than 25 miles from the boundary of the subdivision governed  
19 by the association.

20           (i) If a property owners' association subject to Subsection  
21 (a) fails to comply with this section, an owner may seek one or more  
22 of the following remedies:

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

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

27           (3) a judgment against the property owners'

1 association for court costs and attorney's fees incurred in  
2 connection with seeking a remedy under this section; or

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

7 (j) This section does not require a property owners'  
8 association to staff a building described by Subsection (c).

9 (k) For the purposes of this section, "business day" means a  
10 day other than Saturday, Sunday, or a state or federal holiday.

11 SECTION 2. Subsection (i), Section 209.005, Property Code,  
12 as added by this Act, applies only to a property owners'  
13 association's failure to comply with Section 209.005, Property  
14 Code, on or after the effective date of this Act. A property  
15 owners' association's failure to comply with that section before  
16 the effective date of this Act is governed by the law in effect  
17 immediately before the effective date of this Act, and that law is  
18 continued in effect for that purpose.

19 SECTION 3. This Act takes effect January 1, 2010.