

1-1 By: West S.B. No. 238
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; March 30, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 March 30, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 238 By: West

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the availability of a property owners' association's
1-11 books and records.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 209.005, Property Code, is amended by
1-14 amending Subsection (a) and adding Subsections (c) and (d) to read
1-15 as follows:

1-16 (a) A property owners' association shall make the books and
1-17 records of the association, including financial records,
1-18 reasonably available to an owner in accordance with Section B,
1-19 Article 2.23, Texas Non-Profit Corporation Act (Article 1396-2.23,
1-20 Vernon's Texas Civil Statutes), or a successor to that statute.

1-21 (c) In addition to the requirements of Subsection (a), a
1-22 property owners' association shall maintain a copy of the
1-23 association's books and records, including financial records and
1-24 invoices in a building:

1-25 (1) in which the books and records are appropriately
1-26 stored and which is accessible to members of the association during
1-27 regular business hours; and

1-28 (2) located:

1-29 (A) on property commonly owned by the association
1-30 within the boundaries of the subdivision governed by the
1-31 association; or

1-32 (B) if a building described by this subsection
1-33 does not exist on property described by Paragraph (A):

1-34 (i) in a municipality or extraterritorial
1-35 jurisdiction of a municipality in which all or part of the
1-36 subdivision is located or in whose extraterritorial jurisdiction
1-37 the subdivision is located; or

1-38 (ii) if the subdivision is not located in a
1-39 municipality or extraterritorial jurisdiction of a municipality,
1-40 in a county in which all or part of the subdivision is located.

1-41 (d) If a property owners' association subject to Subsection
1-42 (a) fails to comply with Subsection (a), an owner may seek one or
1-43 more of the following remedies:

1-44 (1) a court order directing the property owners'
1-45 association to provide the required information;

1-46 (2) a judgment against the property owners'
1-47 association for a penalty of not more than \$1,500;

1-48 (3) a judgment against the property owners'
1-49 association for court costs and attorney's fees incurred in
1-50 connection with seeking a remedy under this section; or

1-51 (4) a judgment authorizing the owner or the owner's
1-52 assignee to deduct the amounts awarded under Subdivisions (2) and
1-53 (3) from any future regular or special assessments payable to the
1-54 property owners' association.

1-55 SECTION 2. Subsection (d), Section 209.005, Property Code,
1-56 as added by this Act, applies only to a property owners'
1-57 association's failure to comply with Subsection (a), Section
1-58 209.005, Property Code, on or after the effective date of this Act.
1-59 A property owners' association's failure to comply with that
1-60 subsection before the effective date of this Act is governed by the
1-61 law in effect immediately before the effective date of this Act, and
1-62 that law is continued in effect for that purpose.

1-63 SECTION 3. This Act takes effect January 1, 2010.

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