

By: Averitt

S.B. No. 1126

A BILL TO BE ENTITLED

AN ACT

relating to the operation of property owners' associations.

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

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

(a) A property owners' association shall make the books and records of the association, including financial records and invoices, 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).

(a-1) A property owners' association described by Section 552.0036(2), Government Code, shall make the books and records of the association, including financial records and invoices, reasonably available to any person requesting access to the books or records in accordance with Chapter 552, Government Code. Subsection (a) does not apply to a property owners' association to which this subsection applies.

(c) In addition to the requirements of Subsection (a), a property owners' association shall maintain a copy of the association's books and records, including financial records and invoices, at a location:

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

1 association; or

2 (2) if there is no commonly owned association property
3 within the subdivision, at a location:

4 (A) in a municipality or extraterritorial
5 jurisdiction of a municipality in which all or part of the
6 subdivision is located or in whose extraterritorial jurisdiction
7 the subdivision is located; or

8 (B) if the subdivision is not located in a
9 municipality or extraterritorial jurisdiction of a municipality,
10 in a county in which all or part of the subdivision is located.

11 (d) Documents maintained under Subsection (c) must be
12 readily available for review without charge or time limitation
13 during regular business hours by any member of the association. A
14 member is entitled to copies of the documents for a reasonable
15 charge that does not exceed five cents for each page.

16 SECTION 2. Section 209.0055, Property Code, is amended to
17 read as follows:

18 Sec. 209.0055. VOTING RIGHTS IN CERTAIN ASSOCIATION
19 ELECTIONS. (a) In addition to applying to a property owners'
20 association that is subject to this chapter under Section 209.003,
21 this [This] section applies [only] to a property owners'
22 association that:

23 (1) provides maintenance, preservation, and
24 architectural control of residential and commercial property
25 within a defined geographic area in a county with a population of
26 2.8 million or more or in a county adjacent to a county with a
27 population of 2.8 million or more; and

1 (2) is a corporation that:

2 (A) is governed by a board of trustees who may
3 employ a general manager to execute the association's bylaws and
4 administer the business of the corporation;

5 (B) does not require membership in the
6 corporation by the owners of the property within the defined area;
7 and

8 (C) was incorporated before January 1, 2006.

9 (b) A property owners' association [~~described by Subsection~~
10 ~~(a)~~] may not bar a property owner from voting in an association
11 election solely based on the fact that:

12 (1) there is a pending enforcement action against the
13 property owner; or

14 (2) the property owner owes the association any
15 delinquent assessments, fees, or fines.

16 SECTION 3. Chapter 209, Property Code, is amended by adding
17 Section 209.0056 to read as follows:

18 Sec. 209.0056. ALLOCATION OF VOTES. (a) Before a majority
19 of lots in a subdivision have been sold or otherwise conveyed by the
20 developer, the allocation of votes on any particular issue or
21 motion in a regular or specially called property owners'
22 association election is governed by the dedicatory instrument or by
23 any other applicable provision of this title.

24 (b) After a majority of the lots in the subdivision have
25 been sold or otherwise conveyed by the developer, the allocation of
26 votes on any particular issue or motion in a regular or specially
27 called property owners' association election is subject to the

1 following:

2 (1) a property owner may not cast more than one vote,
3 regardless of the number of lots or percentage of subdivision
4 property owned by the property owner;

5 (2) if more than one person owns an interest in a lot,
6 the owners may cast only one vote for that lot; and

7 (3) a person is not entitled to vote in the election
8 solely by virtue of holding a lien on property in the subdivision
9 governed by the association.

10 (c) After the provisions of Subsections (b)(1), (2), and (3)
11 become applicable to the allocation of votes, the reacquisition by
12 the developer of a majority of the lots in the subdivision does not
13 affect the applicability of those provisions.

14 SECTION 4. Chapter 209, Property Code, is amended by adding
15 Sections 209.014 and 209.015 to read as follows:

16 Sec. 209.014. CONFLICTS OF INTEREST PROHIBITED. A member
17 of a governing board of a property owners' association, or a
18 subcommittee or other body granted authority by the board, may not
19 vote on a matter before the board, subcommittee, or other body in
20 which the outcome has the effect of financially benefiting:

21 (1) that member;

22 (2) a business in which that member has an interest;

23 (3) a person related to that member within the third
24 degree of consanguinity or affinity, as determined under Chapter
25 573, Government Code; or

26 (4) that member's employer or a person who employed the
27 member for any period during the one-year period before the date of

1 the vote.

2 Sec. 209.015. EXPANSION OR TRANSFER OF ASSOCIATION POWERS
3 PROHIBITED. (a) The bylaws of a property owners' association may
4 not expand the powers of the association beyond the powers
5 specifically granted in the dedicatory instrument creating the
6 association.

7 (b) A board of a property owners' association may not
8 transfer any power of the board to amend covenants or restrictions
9 governing the subdivision to an individual or any other entity.

10 SECTION 5. This Act takes effect September 1, 2009.