

By: Dutton

H.B. No. 1639

A BILL TO BE ENTITLED

AN ACT

relating to the recovery of attorney's fees in foreclosure actions  
by property owners' associations.

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

SECTION 1. Section 209.008, Property Code, is amended by  
amending Subsection (a) and adding Subsection (h) to read as  
follows:

(a) Except as provided by this section, a [A] property  
owners' association may collect reimbursement of reasonable  
attorney's fees and other reasonable costs incurred by the  
association relating to collecting amounts, including damages, due  
the association for enforcing restrictions or the bylaws or rules  
of the association only if the owner is provided a written notice  
that attorney's fees and costs will be charged to the owner if the  
delinquency or violation continues after a date certain.

(h) Notwithstanding Subsection (f), an owner is not liable  
for attorney's fees incurred by the property owners' association in  
judicially or nonjudicially foreclosing the association's  
assessment lien on the owner's property.

SECTION 2. (a) Except as provided by this section, the  
change in law made by this Act applies only to a judicial  
foreclosure in which an action is commenced or a nonjudicial  
foreclosure in which a notice of default under Section 51.002,  
Property Code, is given on or after the effective date of this Act.

1 A foreclosure in which an action is commenced or a notice of default  
2 is given before the effective date of this Act is governed by the  
3 law in effect immediately before the effective date of this Act, and  
4 that law is continued in effect for that purpose.

5 (b) The change in law made by this Act does not apply to  
6 liability for attorney's fees incurred before the effective date of  
7 this Act. Liability for attorney's fees incurred before the  
8 effective date of this Act is governed by the law in effect  
9 immediately before the effective date of this Act, and that law is  
10 continued in effect for that purpose.

11 SECTION 3. This Act takes effect September 1, 2011.