

By: Anderson of Dallas

H.B. No. 1821

A BILL TO BE ENTITLED

AN ACT

relating to the delivery of subdivision information by a property owners' association to purchasers.

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

SECTION 1. The heading to Section 207.003, Property Code, is amended to read as follows:

Sec. 207.003. DELIVERY OF SUBDIVISION INFORMATION TO OWNER OR PURCHASER.

SECTION 2. Section 207.003, Property Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (a-1) and (c-1) to read as follows:

(a) Not later than the 10th business day after the date a written request for subdivision information is received from an owner or the[ ] owner's agent, a purchaser of property in a subdivision or the purchaser's agent, or a title insurance company or its agent acting on behalf of the owner or purchaser, payment for the requested information is received, and the evidence of the requestor's authority to order a resale certificate under Subsection (a-1) is received and verified, the property owners' association shall deliver to the owner or the[ ] owner's agent, the purchaser or the purchaser's agent, or the title insurance company or its agent:

(1) a current copy of the restrictions applying to the subdivision;

1           (2) a current copy of the bylaws and rules of the  
2 property owners' association; and

3           (3) a resale certificate that complies with Subsection  
4 (b).

5           (a-1) For a request from a purchaser of property in a  
6 subdivision or the purchaser's agent, the property owners'  
7 association may require the purchaser or purchaser's agent to  
8 provide to the association, before the association begins the  
9 process of preparing or delivers the items listed in Subsection  
10 (a), reasonable evidence that the purchaser has a contractual or  
11 other right to acquire property in the subdivision.

12           (b) A resale certificate under Subsection (a) must contain:

13           (1) a statement of any right of first refusal, other  
14 than a right of first refusal that is prohibited by statute, and any  
15 [or] other restraint contained in the restrictions or restrictive  
16 covenants that restricts the owner's right to transfer the owner's  
17 property;

18           (2) the frequency and amount of any regular  
19 assessments;

20           (3) the amount of any special assessment that has been  
21 approved as of [~~is due after~~] the date the resale certificate is  
22 prepared;

23           (4) the total of all amounts due and unpaid to the  
24 property owners' association that are attributable to the owner's  
25 property;

26           (5) capital expenditures, if any, approved by the  
27 property owners' association for the property owners' association's

1 current fiscal year;

2 (6) the amount of reserves, if any, for capital  
3 expenditures;

4 (7) the property owners' association's current  
5 operating budget and balance sheet;

6 (8) the total of any unsatisfied judgments against the  
7 property owners' association;

8 (9) the style and cause number of any pending lawsuit  
9 in which the property owners' association is a defendant, other  
10 than a lawsuit relating to unpaid property taxes of an individual  
11 member of the association;

12 (10) a copy of a certificate of insurance showing the  
13 property owners' association's property and liability insurance  
14 relating to the common areas and common facilities;

15 (11) a description of any conditions on the owner's  
16 property that the property owners' association board has actual  
17 knowledge are in violation of the restrictions applying to the  
18 subdivision or the bylaws or rules of the property owners'  
19 association;

20 (12) a summary or copy of notices received by the  
21 property owners' association from any governmental authority  
22 regarding health or housing code violations existing on the  
23 preparation date of the certificate relating to the owner's  
24 property or any common areas or common facilities owned or leased by  
25 the property owners' association;

26 (13) the amount of any administrative transfer fee  
27 charged by the property owners' association for a change of

1 ownership of property in the subdivision;

2 (14) the name, mailing address, and telephone number  
3 of the property owners' association's managing agent, if any; ~~and~~

4 (15) a statement indicating whether the restrictions  
5 allow foreclosure of a property owners' association's lien on the  
6 owner's property for failure to pay assessments; and

7 (16) a statement of all fees associated with the  
8 transfer of ownership, including a description of each fee, to whom  
9 each fee is paid, and the amount of each fee.

10 (c-1) A purchaser of the property shall pay the fee to the  
11 property owners' association or its agent for issuing the resale  
12 certificate unless otherwise agreed by the purchaser and seller of  
13 the property. The property owners' association may require payment  
14 before beginning the process of providing a resale certificate but  
15 may not process a payment for a resale certificate until the  
16 certificate is available for delivery. The association may not  
17 charge a fee if the certificate is not provided in the time  
18 prescribed by Subsection (a).

19 (f) Not later than the seventh business day after the date a  
20 written request for an update of ~~to~~ a resale certificate  
21 delivered under Subsection (a) is received from an owner, owner's  
22 agent, or title insurance company or its agent acting on behalf of  
23 the owner, the property owners' association shall deliver to the  
24 owner, owner's agent, or title insurance company or its agent an  
25 updated resale certificate that contains the following  
26 information:

27 (1) if a right of first refusal or other restraint on

1 sale is contained in the restrictions, a statement of whether the  
2 property owners' association waives the restraint on sale;

3 (2) the status of any unpaid special assessments,  
4 dues, or other payments attributable to the owner's property; and

5 (3) any changes to the information provided in the  
6 resale certificate issued under Subsection (a).

7 SECTION 3. The change in law made by this Act applies only  
8 to a written request for subdivision information submitted on or  
9 after the effective date of this Act. A written request for  
10 subdivision information submitted before the effective date of this  
11 Act is governed by the law in effect immediately before that date,  
12 and that law is continued in effect for that purpose.

13 SECTION 4. This Act takes effect September 1, 2011.