

By: Anderson of Dallas

H.B. No. 1821

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

9 SECTION 2. Subsections (a)-(f), Section 207.003, Property  
10 Code, are amended to read as follows:

11 (a) Not later than the 10th business day after the date a  
12 written request for ~~subdivision information~~ an association  
13 disclosure statement is received from an owner, owner's agent,  
14 purchaser of property in a subdivision, such purchaser's agent, or  
15 title insurance company or its agent acting on behalf of the owner  
16 or purchaser, the property owners' association shall deliver to the  
17 owner, owner's agent, purchaser, purchaser's agent, or title  
18 insurance company or its agent, the items listed below in this  
19 Subsection (a). In the case of a request by a purchaser of property  
20 in a subdivision or such purchaser's agent, prior to delivering the  
21 items listed below, the property owners' association shall be  
22 entitled to require that such purchaser or purchaser's agent  
23 provide to the property owners' association reasonable evidence  
24 that such purchaser has a contractual or other right to acquire

1 property in the subdivision.

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

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

6 (3) an ~~resale certificate~~ association disclosure  
7 statement that complies with Subsection (b).

8 (b) An ~~resale certificate~~ association disclosure statement  
9 under Subsection (a) must contain:

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

15 (2) the frequency and amount of any regular  
16 assessments;

17 (3) the amount of any special assessment that has been  
18 approved as of ~~is due after~~ the date the ~~resale certificate~~  
19 association disclosure statement is prepared;

20 (4) the total of all amounts due and unpaid to the  
21 property owners' association that are attributable to the owner's  
22 property;

23 (5) capital expenditures, if any, approved by the  
24 property owners' association for the property owners' association's  
25 current fiscal year;

26 (6) the amount of reserves, if any, for capital  
27 expenditures;

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

3           (8) the total of any unsatisfied judgments against the  
4 property owners' association;

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

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

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

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

23           (13) the amount of any administrative transfer fee  
24 charged by the property owners' association for a change of  
25 ownership of property in the subdivision;

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

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

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

7 (c) A property owners' association may charge a reasonable  
8 fee to assemble, copy, and deliver the information required by this  
9 section and may charge a reasonable fee to prepare and deliver an  
10 update of an association disclosure statement  
11 under Subsection (f). The party requesting an association  
12 disclosure statement described in Subsection (a) shall be  
13 responsible for payment of any fee charged for such an association  
14 disclosure statement.

15 (d) The property owners' association shall deliver the  
16 information required by Subsection (a) or (f) to the person  
17 specified in the written request. A written request that does not  
18 specify the name and location to which the information is to be sent  
19 is not effective. The property owners' association may deliver the  
20 information required by Subsection (a) and any update to the ~~resale~~  
21 ~~certificate~~ association disclosure statement required by  
22 Subsection (f) by mail, hand delivery, or alternative delivery  
23 means specified in the written request.

24 (e) Unless required by a dedicatory instrument, neither a  
25 property owners' association or its agent is required to inspect a  
26 property before issuing an association  
27 disclosure statement or an update to an ~~resale certificate~~

1 association disclosure statement.

2 (f) Not later than the seventh business day after the date a  
3 written request for an update to an ~~an resale certificate~~ association  
4 disclosure statement delivered under Subsection (a) is received  
5 from an owner, owner's agent, or title insurance company or its  
6 agent acting on behalf of the owner, the property owners'  
7 association shall deliver to the owner, owner's agent, or title  
8 insurance company or its agent an updated ~~resale certificate~~  
9 association disclosure statement that contains the following  
10 information:

11 (1) if a right of first refusal or other restraint on  
12 sale is contained in the restrictions, a statement of whether the  
13 property owners' association waives the restraint on sale;

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

16 (3) any changes to the information provided in the  
17 ~~resale certificate~~ association disclosure statement issued under  
18 Subsection (a).

19 SECTION 3. The change in law made by this Act applies only  
20 to a written request for subdivision information submitted on or  
21 after the effective date of this Act. A written request for  
22 subdivision information submitted before the effective date of this  
23 Act is governed by the law in effect immediately before that date,  
24 and that law is continued in effect for that purpose.

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