

By: Thompson

H.B. No. 2501

A BILL TO BE ENTITLED

AN ACT

relating to voting in property owners' association elections.

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

SECTION 1. Chapter 209, Property Code, is amended by adding Section 209.00593 to read as follows:

Sec. 209.00593. VOTING; QUORUM. (a) The voting rights of an owner may be cast or given:

(1) in person or by proxy at a meeting of the property owners' association;

(2) by absentee ballot in accordance with this section;

(3) by any method of representative or delegated voting provided by a dedicatory instrument; or

(4) by electronic ballot in accordance with this section.

(b) An absentee or electronic ballot:

(1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;

(2) may be withdrawn by an owner if the owner attends a meeting at which votes on the ballot items are cast; and

(3) may not be counted, except for quorum purposes, on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or

1 electronic ballot.

2 (c) A solicitation for votes by absentee or electronic  
3 ballot must include:

4 (1) an absentee or electronic ballot that contains  
5 each proposed action and provides an opportunity to vote for or  
6 against each proposed action;

7 (2) instructions for delivery of the completed  
8 absentee or electronic ballot, including the delivery location; and

9 (3) the following language: "By casting your vote via  
10 absentee or electronic ballot you will forgo the opportunity to  
11 consider and vote on any action from the floor on these proposals,  
12 if a meeting is held. This means that if there are amendments to  
13 these proposals your votes will not be counted on the final vote on  
14 these measures. If you desire to retain this ability, please attend  
15 any meeting in person. You may submit an absentee or electronic  
16 ballot and later choose to attend any meeting in person, in which  
17 case any in-person vote will prevail."

18 (d) For the purposes of this section, "electronic ballot"  
19 means a ballot:

20 (1) conveyed in an electronic manner and format  
21 prescribed by the property owners' association board;

22 (2) for which the identity of the property owner  
23 submitting the ballot can be reasonably established; and

24 (3) for which the property owner may receive a receipt  
25 of the electronic transmission and receipt of the owner's ballot.

26 (e) If an electronic ballot is posted on an Internet  
27 website, a notice shall be provided to each owner that contains

1 instructions on obtaining access to the posting on the website.

2 (f) The property owners' association board has the sole  
3 authority to prescribe or cause to be prescribed all proxy and  
4 ballot forms.

5 (g) This section supersedes any contrary provision in a  
6 dedicatory instrument.

7 (h) Except as provided by Subsection (i), this section  
8 applies to all property owners' associations and controls over any  
9 other law not specifically applicable to a property owners'  
10 association.

11 (i) This section does not apply to a property owners'  
12 association that is subject to Chapter 552, Government Code, by  
13 application of Section 552.0036, Government Code.

14 SECTION 2. Section 209.00593, Property Code, as added by  
15 this Act, applies to a provision in a dedicatory instrument enacted  
16 before, on, or after the effective date of this Act.

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