

By: West

S.B. No. 142

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. Subsection (a), Section 5.006, Property Code, is amended to read as follows:

(a) In an action based on breach of a restrictive covenant pertaining to real property or a statute pertaining to real property subject to a restrictive covenant or to restrictive covenants to which real property is subject, the court may ~~shall~~ allow to a prevailing party ~~[who asserted the action]~~ reasonable attorney's fees in addition to the party's costs and claim.

SECTION 2. Section 5.012, Property Code, is amended by amending Subsection (a) and adding Subsections (f) and (g) to read as follows:

(a) A seller of residential real property that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION CONCERNING THE PROPERTY AT (street address) (name of residential community)

As a purchaser of property in the residential community in which this property is located, you are obligated to be a member of a property owners' association. Restrictive covenants governing

1 the use and occupancy of the property and all [~~a~~] dedicatory
2 instruments [~~instrument~~] governing the establishment, maintenance,
3 or [~~and~~] operation of this residential community have been or will
4 be recorded in the Real Property Records of the county in which the
5 property is located. Copies of the restrictive covenants and
6 dedicatory instruments [~~instrument~~] may be obtained from the county
7 clerk.

8 You are obligated to pay assessments to the property owners'
9 association. The amount of the assessments is subject to change.
10 Your failure to pay the assessments could result in a lien on and
11 the foreclosure of your property.

12 Section 207.003, Property Code, entitles an owner to receive
13 copies of any document that governs the establishment, maintenance,
14 or operation of a subdivision, including, but not limited to,
15 restrictions, bylaws, rules and regulations, and a resale
16 certificate from a property owners' association. A resale
17 certificate contains information including, but not limited to,
18 statements specifying the amount and frequency of regular
19 assessments and the style and cause number of lawsuits to which the
20 property owners' association is a party. These documents must be
21 made available to you by the seller on your request.

22 Date: _____

23 Signature of Purchaser

24 (f) On the purchaser's request for a resale certificate from
25 the seller, the seller shall:

26 (1) promptly deliver a copy of a current resale
27 certificate if one has been issued for the property under Chapter

1 207; or

2 (2) if the seller does not have a current resale
3 certificate:

4 (A) request the property owners' association or
5 its agent to issue a resale certificate under Chapter 207; and

6 (B) promptly deliver a copy of the resale
7 certificate to the purchaser on receipt of the resale certificate
8 from the property owners' association or its agent.

9 (g) The seller or the purchaser, as agreed to by the
10 parties, shall pay the fee to the property owners' association or
11 its agent for issuing the resale certificate. The property owners'
12 association may not process payment for a resale certificate
13 requested under Chapter 207 until the certificate is available for
14 delivery. The association may not charge a fee if the certificate
15 is not provided in the time prescribed by Section 207.003(a).

16 SECTION 3. Subsection (c), Section 5.017, Property Code, is
17 amended to read as follows:

18 (c) This section does not apply to a deed restriction or
19 other covenant running with the land that requires a fee associated
20 with the conveyance of property in a subdivision that is payable:

21 (1) to:

22 (A) [~~1~~] a property owners' association that
23 manages or regulates the subdivision or the association's managing
24 agent if the subdivision contains more than one platted lot;

25 (B) [~~2~~] an entity organized under Section
26 501(c)(3), Internal Revenue Code of 1986; [~~or~~]

27 (C) [~~3~~] a governmental entity; or

1 (D) an entity other than a property owners'
2 association that operates a golf course and country club in or
3 adjacent to the subdivision if property owners in the subdivision
4 are required by deed restriction to obtain and maintain a
5 membership in the golf course and country club; or

6 (2) for the benefit or in consideration of a
7 conservation easement created under Chapter 183, Natural Resources
8 Code, located in a county with a population of at least 500,000 and
9 not more than one million.

10 SECTION 4. Subdivision (1), Section 202.001, Property Code,
11 is amended to read as follows:

12 (1) "Dedictory instrument" means each document
13 governing [~~instrument covering~~] the establishment, maintenance, or
14 [~~and~~] operation of a residential subdivision, planned unit
15 development, condominium or townhouse regime, or any similar
16 planned development. The term includes:

17 (A) a declaration or similar instrument
18 subjecting real property to:

19 (i) restrictive covenants, bylaws, or
20 similar instruments governing the administration or operation of a
21 property owners' association;

22 (ii) [~~to~~] properly adopted rules and
23 regulations of the property owners' association; or

24 (iii) [~~or to~~] all lawful amendments to the
25 covenants, bylaws, instruments, rules, or regulations; and

26 (B) bylaws, rules, regulations, or guidelines
27 adopted by a property owners' association under an instrument

1 described by Paragraph (A).

2 SECTION 5. Section 202.004, Property Code, is amended by
3 adding Subsections (d) and (e) to read as follows:

4 (d) In evaluating an alleged or potential violation of a
5 restrictive covenant, the property owners' association or other
6 representative designated by an owner of real property may,
7 notwithstanding any provision in a dedicatory instrument, grant a
8 variance and in doing so not enforce the restrictive covenant if the
9 property owners' association board, in the board's reasonable
10 judgment, determines:

11 (1) the property owners' association's position is not
12 sufficiently strong to justify taking any action or further action;

13 (2) the provision alleged to have been violated may be
14 inconsistent with applicable law;

15 (3) the alleged violation is not of such a material or
16 visible nature as to be objectionable to a reasonable person or to
17 justify expending the property owners' association's resources;

18 (4) enforcement of the provision is not in the
19 association's best interests, based on hardship, expense, or other
20 reasonable criteria; or

21 (5) the facts of the particular circumstances, such as
22 topography of the owner's land or unforeseen circumstances unique
23 to the particular owner, justify the variance.

24 (e) A determination by the property owners' association
25 board to grant a variance under Subsection (d) may not be considered
26 a waiver of the association's ability to enforce any dedicatory
27 instrument provision in the future.

1 SECTION 6. Section 202.006, Property Code, is amended to
2 read as follows:

3 Sec. 202.006. PUBLIC RECORDS. (a) A property owners'
4 association shall file all [~~the~~] dedicatory instruments
5 [~~instrument~~] in the real property records of each county in which
6 the property to which the dedicatory instruments relate [~~instrument~~
7 ~~relates~~] is located.

8 (b) A dedicatory instrument that is not filed in accordance
9 with this section has no effect until filed.

10 SECTION 7. Chapter 202, Property Code, is amended by adding
11 Sections 202.008, 202.010, 202.011, 202.012, 202.013, 202.014, and
12 202.015 to read as follows:

13 Sec. 202.008. ASSOCIATION'S RIGHT OF ENTRY. (a) Except as
14 provided by this section, a provision in a dedicatory instrument
15 that provides a property owners' association the right or authority
16 to enter onto an owner's private property to enforce or abate an
17 alleged violation of a restrictive covenant is void as against
18 public policy except for entry:

19 (1) to cure a violation that involves an immediate
20 threat to persons or property;

21 (2) after 10 days' written notice, to:

22 (A) perform a forced mow; or

23 (B) remove trash or debris; or

24 (3) in circumstances in which it is reasonably
25 determined the property has been abandoned and not maintained for
26 at least 30 days.

27 (b) This section does not prohibit a provision in a

1 dedicatory instrument allowing a property owners' association a
2 right of entry on the property of an owner that is limited to a
3 dedicated access or other easement contained in a final plat or an
4 easement filed of record.

5 (c) This section does not apply to:

6 (1) an association regulated under Title 7;

7 (2) a property owners' association that funds through
8 assessments:

9 (A) insurance on residences;

10 (B) one or more utility payments for residences;

11 or

12 (C) exterior maintenance of residences; or

13 (3) a property owners' association that is a mixed use
14 master association that existed before January 1, 1974, and that
15 does not have the authority under a dedicatory instrument or other
16 governing document to impose fines.

17 Sec. 202.010. CERTAIN PARKING RESTRICTIONS PROHIBITED.

18 (a) A provision in a dedicatory instrument that restricts or
19 prohibits an owner from parking an operable, noncommercial, and
20 personal automobile or truck on a public street is void as against
21 public policy.

22 (b) A provision in a dedicatory instrument that restricts or
23 prohibits an owner from parking the owner's operable,
24 noncommercial, and personal automobile or truck in the owner's
25 driveway is void as against public policy.

26 (c) For the purposes of this section, "noncommercial
27 automobile" means a motor vehicle that may be legally driven on

1 public roads under state law and that exhibits no commercial
2 advertising other than standard dealer or manufacturer
3 advertising.

4 (d) For the purposes of this section, a recreational
5 vehicle, motor home, camper, all-terrain vehicle, trailer, or
6 watercraft, a tow truck, cement mixer, or other similar commercial
7 vehicle, or a vehicle that is more than 30 feet long is not
8 considered to be a personal automobile or truck.

9 (e) This section does not apply to:

10 (1) an association regulated under Title 7; or

11 (2) a property owners' association that funds through
12 assessments:

13 (A) insurance on residences;

14 (B) one or more utility payments for residences;

15 or

16 (C) exterior maintenance of residences.

17 Sec. 202.011. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In
18 this section, "development period" means a period stated in a
19 declaration during which a declarant reserves:

20 (1) a right to facilitate the development,
21 construction, and marketing of the subdivision; and

22 (2) a right to direct the size, shape, and composition
23 of the subdivision.

24 (b) To the extent a restrictive covenant provides a right of
25 first refusal for the sale or lease of a residential unit or
26 residential lot in favor of the property owners' association or the
27 association's members, the covenant is void.

1 (c) This section does not apply to a restrictive covenant
2 that provides a right of first refusal in favor of a developer or
3 builder during the development period.

4 Sec. 202.012. REGULATION OF SOLAR ENERGY DEVICES. (a) In
5 this section, "solar energy device" has the meaning assigned by
6 Section 171.107, Tax Code.

7 (b) Except as otherwise provided by this section, a property
8 owners' association may not include or enforce a provision in a
9 dedicatory instrument that prohibits or restricts a property owner
10 from installing a solar energy device.

11 (c) A provision that violates Subsection (b) is void.

12 (d) This section does not prohibit the inclusion or
13 enforcement of a provision in a dedicatory instrument that
14 prohibits a solar energy device that:

15 (1) as adjudicated by a court:

16 (A) threatens the public health or safety; or

17 (B) violates a law;

18 (2) is located on property owned or maintained by the
19 property owners' association;

20 (3) is located on property owned in common by the
21 members of the property owners' association; or

22 (4) is located in an area on the property owner's
23 property other than:

24 (A) on the roof of the home; or

25 (B) in a fenced yard or patio maintained by the
26 property owner.

27 Sec. 202.013. RENTAL RESTRICTIONS. (a) Except as provided

1 by Subsection (b), a property owners' association may not amend a
2 dedicatory instrument to prohibit or restrict the rental of
3 property subject to the dedicatory instrument without the consent
4 of at least 51 percent of the total votes allocated to property
5 owners subject to the dedicatory instrument.

6 (b) An amendment to a dedicatory instrument may require:

7 (1) an owner to:

8 (A) exercise due diligence in not leasing to an
9 occupant who is a registered sex offender or who has a history of
10 violent crime; or

11 (B) terminate the possessory right of any tenant
12 or occupant who is a registered sex offender or who has a history of
13 violent crime;

14 (2) all leases to be subject to the dedicatory
15 instruments of the property owners' association; or

16 (3) a minimum lease term of not more than six months.

17 Sec. 202.014. RESTRICTIONS REQUIRING CAPITAL IMPROVEMENTS.

18 (a) A dedicatory instrument may not be amended to retroactively
19 require a person who owns property subject to the dedicatory
20 instrument at the time the amendment is adopted to make a capital
21 improvement to the owner's property that is not required before the
22 amendment. A provision of a dedicatory instrument requiring an
23 owner to make a capital improvement to the owner's property may only
24 be adopted by a vote of at least 67 percent of the total votes
25 allocated to property owners subject to the dedicatory instrument
26 and may be applicable only to owners purchasing property subject to
27 the dedicatory instrument after the provision is adopted.

1 (b) For the purposes of this section, "capital improvement"
2 means items such as additional tree plantings, additional sodding,
3 fence construction, hardscape installation, new construction, or
4 any similar capital improvement. The term does not include repair
5 or maintenance of existing improvements or the removal of
6 conditions that are in violation of a dedicatory instrument.

7 Sec. 202.015. INJUNCTION; DAMAGES. (a) If a property
8 owners' association or other representative designated by the
9 property owners' association has violated, is violating, or is
10 threatening to violate this chapter, a member of the property
11 owners' association may bring a civil action against the property
12 owners' association but may not bring an action against an
13 association's officer or board member individually.

14 (b) A member of a property owners' association bringing an
15 action under this section may seek:

16 (1) injunctive relief;

17 (2) damages in an amount equal to the greater of:

18 (A) actual damages arising from the violation; or

19 (B) \$1,500 for each violation; or

20 (3) both injunctive relief and damages as provided in
21 this subsection.

22 (c) The court may increase an award under Subsection (b)(2)
23 to an amount not to exceed three times the amount awarded under
24 Subsection (b)(2) if the court finds that violations have occurred
25 with a frequency that constitutes a pattern or practice.

26 (d) Each day a violation continues is not considered a
27 separate violation for purposes of an assessment of damages.

1 (e) The court may award damages to a property owners'
2 association for a suit brought by a member of the property owners'
3 association that the court finds frivolous or groundless in an
4 amount that is not more than the greater of:

- 5 (1) three times the association's actual damages; or
6 (2) \$4,500.

7 (f) On or before the 30th day before the date a person files
8 a suit under this section, the person must provide notice to the
9 other party of the person's intent to file suit under this section.
10 The notice must be sent certified mail, return receipt requested,
11 or delivered by the United States Postal Service with signature
12 confirmation service.

13 SECTION 8. Subsection (b), Section 207.003, Property Code,
14 is amended to read as follows:

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

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

21 (2) the frequency and amount of any regular
22 assessments;

23 (3) the amount and purpose of any special assessment
24 that is due after the date the resale certificate is prepared;

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

- 1 (5) capital expenditures, if any, approved by the
2 property owners' association for the property owners' association's
3 current fiscal year;
- 4 (6) the amount of reserves, if any, for capital
5 expenditures;
- 6 (7) the property owners' association's current
7 operating budget and balance sheet;
- 8 (8) the total of any unsatisfied judgments against the
9 property owners' association;
- 10 (9) the style and cause number of any pending lawsuit
11 in which the property owners' association is a party, other than a
12 lawsuit relating to unpaid property taxes of an individual member
13 of the association [~~defendant~~];
- 14 (10) a copy of a certificate of insurance showing the
15 property owners' association's property and liability insurance
16 relating to the common areas and common facilities;
- 17 (11) a description of any conditions on the owner's
18 property that the property owners' association board has actual
19 knowledge are in violation of the restrictions applying to the
20 subdivision or the bylaws or rules of the property owners'
21 association;
- 22 (12) a summary or copy of notices received by the
23 property owners' association from any governmental authority
24 regarding health or housing code violations existing on the
25 preparation date of the certificate relating to the owner's
26 property or any common areas or common facilities owned or leased by
27 the property owners' association;

1 (13) the amount of any administrative transfer fee
2 charged by the property owners' association for a change of
3 ownership of property in the subdivision;

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

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

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

12 SECTION 9. Section 209.003, Property Code, is amended by
13 adding Subsection (e) to read as follows:

14 (e) The following provisions of this chapter do not apply to
15 a property owners' association that is a mixed use master
16 association that existed before January 1, 1974, and that does not
17 have the authority under a dedicatory instrument or other governing
18 document to impose fines:

19 (1) Section 209.005(b);

20 (2) Section 209.0056;

21 (3) Section 209.0057;

22 (4) Section 209.0058;

23 (5) Section 209.00591;

24 (6) Section 209.00593;

25 (7) Section 209.006(c);

26 (8) Section 209.0062; and

27 (9) Section 209.014.

1 SECTION 10. Chapter 209, Property Code, is amended by
2 adding Sections 209.0035 and 209.0041 to read as follows:

3 Sec. 209.0035. INJUNCTION; DAMAGES. (a) If a property
4 owners' association or other representative designated by the
5 property owners' association has violated, is violating, or is
6 threatening to violate this chapter, a member of the property
7 owners' association may bring a civil action against the property
8 owners' association but may not bring an action against an
9 association's officer or board member individually.

10 (b) A member of a property owners' association bringing an
11 action under this section may seek:

12 (1) injunctive relief;

13 (2) damages in an amount equal to the greater of:

14 (A) actual damages arising from the violation; or

15 (B) \$1,500 for each violation; or

16 (3) both injunctive relief and damages as provided in
17 this subsection.

18 (c) The court may increase an award under Subsection (b)(2)
19 to an amount not to exceed three times the amount awarded under
20 Subsection (b)(2) if the court finds that violations have occurred
21 with a frequency that constitutes a pattern or practice.

22 (d) Each day a violation continues is not considered a
23 separate violation for purposes of assessment of damages.

24 (e) The court may award damages to a property owners'
25 association for a suit brought by a member of the property owners'
26 association that the court finds frivolous or groundless in an
27 amount that is not more than the greater of:

1 (1) three times the association's actual damages; or

2 (2) \$4,500.

3 (f) On or before the 30th day before the date a person files
4 a suit under this section, the person must provide notice to the
5 other party of the person's intent to file suit under this section.
6 The notice must be sent certified mail, return receipt requested,
7 or delivered by the United States Postal Service with signature
8 confirmation service.

9 Sec. 209.0041. AMENDMENT OF DEDICATORY INSTRUMENTS.

10 (a) This section applies to a residential subdivision in which
11 property owners are subject to mandatory membership in a property
12 owners' association.

13 (b) This section applies to all dedicatory instruments
14 regardless of the date on which the dedicatory instruments were
15 created.

16 (c) This section does not apply to the amendment of a
17 dedicatory instrument during a development period, as defined by
18 Section 202.011.

19 (d) To the extent of any conflict with another provision of
20 this title, this section prevails.

21 (e) Except as provided by Subsection (f), a dedicatory
22 instrument may be amended only by a vote of at least 51 percent of
23 the total votes allocated to property owners in the property
24 owners' association, in addition to any governmental approval
25 required by law.

26 (f) A rule or guideline that affects land owned, leased,
27 maintained, or otherwise controlled by the property owners'

1 association may be adopted or amended by majority vote of the
2 association board. A rule or guideline that impacts the use and
3 enjoyment of personal or real property owned exclusively by the
4 owner or that may result in a fine or loss of privilege of a member
5 of the association may be adopted or amended only by a vote of at
6 least 51 percent of the total votes allocated to property owners who
7 cast votes by any permissible method in an association-wide vote.

8 (g) A property owners' association board by majority vote
9 may adopt ministerial, office-related procedural policies, such as
10 payment plan guidelines under Section 209.0062, a collections
11 policy, an enforcement policy, or other similar ministerial,
12 office-related procedural policies. The policy may outline
13 circumstances under which or the manner by which enforcement
14 remedies may be carried out but may not otherwise impact the use and
15 enjoyment of personal or real property owned exclusively by the
16 owner. The policy may not:

17 (1) create a power to:

18 (A) levy a fine; or

19 (B) impose a loss of a privilege on a member of
20 the association; or

21 (2) expand the association's powers beyond the powers
22 granted by any other dedicatory instrument.

23 (h) All ballots cast in a vote that results in an amendment
24 to a restrictive covenant, bylaw, or rule are records of the
25 association subject to inspection under Section 209.005.

26 (i) This section supersedes any contrary requirement in a
27 dedicatory instrument.

1 (j) This section does not apply to a property owners'
2 association that is subject to Chapter 552, Government Code, by
3 application of Section 552.0036, Government Code.

4 SECTION 11. Section 209.005, Property Code, is amended to
5 read as follows:

6 Sec. 209.005. ASSOCIATION RECORDS. (a) This section does
7 not apply to a property owners' association that is subject to
8 Chapter 552, Government Code, by application of Section 552.0036,
9 Government Code.

10 (b) Notwithstanding a provision in a dedicatory instrument,
11 a [A] property owners' association shall make the books and records
12 of the association, including financial records, open to and
13 reasonably available for examination by [to] an owner [in
14 accordance with Section B, Article 2.23, Texas Non-Profit
15 Corporation Act (Article 1396-2.23, Vernon's Texas Civil
16 Statutes)]. An owner is entitled to obtain from the association
17 copies of information contained in the books and records.

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

25 ~~[(b)]~~ An attorney's files and records relating to the
26 association, excluding invoices requested by an owner under Section
27 209.008(d), are not:

- (1) records of the association;
- (2) subject to inspection by the owner; or
- (3) subject to production in a legal proceeding.

(d) In addition to the requirements of Subsection (b), a property owners' association shall make the association's books and records, including financial records and invoices, available in a building:

(1) in which the books and records are appropriately stored; and

(2) that is:

(A) staffed during normal business hours;

(B) accessible to members of the association during normal business hours; and

(C) located on property commonly owned by the association within the boundaries of the subdivision governed by the association.

(e) If a building described by Subsection (d) does not exist on property described by Subsection (d), the property owners' association shall make the books and records available in accordance with Subsections (g) and (h).

(f) A party requesting association books or records shall submit the request in writing:

(1) in person by hand delivery to a current board member;

(2) to the mailing address of the association or authorized representative as provided on the most current management certificate filed under Section 209.004; or

1 (3) in person to a managing agent as reflected on the
2 most current management certificate filed under Section 209.004.

3 (g) A property owners' association shall make books and
4 records requested under Subsection (b) available to the requesting
5 party within a reasonable time of the property owners'
6 association's receipt of the request.

7 (h) A reasonable time for providing information requested
8 under Subsection (b) is considered to be 10 business days after the
9 date the property owners' association receives a request, except as
10 otherwise provided by this section.

11 (i) If the property owners' association is unable to produce
12 a requested book or record on or before the 10th business day after
13 the date the request is received, the property owners' association
14 must provide to the requestor written notice that:

15 (1) informs the requestor that the property owners'
16 association is unable to produce the information on or before the
17 10th business day after the date of the receipt of the request; and

18 (2) states a date by which the information will be
19 available for inspection that occurs not later than the 30th day
20 after the date notice under this subsection is given.

21 (j) A property owners' association shall make books and
22 records requested under this section available to the requestor in
23 one or more of the following formats, as specified by the requestor:

24 (1) an electronic format:

25 (A) delivered to an electronic mail address
26 provided by the requestor; or

27 (B) delivered in a disc or other standard

1 electronic format:

2 (i) to the mailing address of the
3 requestor; or

4 (ii) if the requesting party does not
5 provide a mailing address, to the address of the requestor's
6 property in the subdivision; or

7 (2) a hard-copy format:

8 (A) delivered to the mailing address of the
9 requestor; or

10 (B) if the requesting party does not provide a
11 mailing address:

12 (i) mailed to the address of the requestor's property in the
13 subdivision; or

14 (ii) made available at a location not more
15 than 25 miles from the boundary of the subdivision governed by the
16 association.

17 (k) This section does not require a property owners'
18 association to staff a building described by Subsection (d).

19 (l) A property owners' association may charge an owner for
20 copies of the requested information in an amount that reasonably
21 includes all costs related to reproducing the information,
22 including costs of materials, labor, and overhead.

23 (m) Any information maintained by the association that is
24 released under this section may not identify an individual member
25 of an association or an individual's personal financial
26 information. Information may be released in an aggregate manner
27 that would not identify an individual property owner.

1 (n) All ballots cast in an election that results in an
2 amendment to a dedicatory instrument, as required by Section
3 209.0041, are records of the property owners' association subject
4 to inspection under this section.

5 (o) All ballots cast in an election of property owners'
6 association board or other committee members are considered records
7 of the association but may not be made available for inspection
8 under this section, except for the purposes of a recount under
9 Section 209.0057(e), without a court order or subpoena. The
10 association shall take reasonable measures to safeguard the
11 security and privacy of those ballots.

12 (p) A property owners' association shall:

13 (1) keep all records as to changes to the dedicatory
14 instruments in perpetuity;

15 (2) maintain and secure all ballots in
16 association-wide elections for four years; and

17 (3) maintain records related to financial matters of
18 the association, including assessments, fines, foreclosures, and
19 enforcement actions, for at least seven years.

20 (q) A member of a property owners' association who is denied
21 access to or copies of association books or records to which the
22 member is entitled under this section may file a petition with the
23 justice of the peace of a justice precinct in which all or part of
24 the property that is governed by the association is located
25 requesting relief in accordance with this subsection. If the
26 justice of the peace finds that the member is entitled to access to
27 or copies of the records, the justice of the peace may grant one or

1 more of the following remedies:

2 (1) a judgment against the property owners'
3 association for a penalty of not more than \$1,500;

4 (2) a judgment against the property owners'
5 association for court costs and attorney's fees incurred in
6 connection with seeking a remedy under this section; or

7 (3) a judgment authorizing the owner or the owner's
8 assignee to deduct the amounts awarded under Subdivisions (1) and
9 (2) from any future regular or special assessments payable to the
10 property owners' association.

11 (r) For the purposes of this section, "business day" means a
12 day other than Saturday, Sunday, or a state or federal holiday.

13 (s) On or before the 10th day before the date a person files
14 a suit under this section, the person must provide notice to the
15 other party of the person's intent to file suit under this section.
16 The notice must be sent certified mail, return receipt requested,
17 or delivered by the United States Postal Service with signature
18 confirmation service.

19 SECTION 12. Chapter 209, Property Code, is amended by
20 adding Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059,
21 209.00591, 209.00592, and 209.00593 to read as follows:

22 Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does
23 not apply to a property owners' association that is subject to
24 Chapter 551, Government Code, by application of Section 551.0015,
25 Government Code.

26 (b) In this section, "board meeting" means a deliberation
27 between a quorum of the voting board of the property owners'

1 association, or between a quorum of the voting board and another
2 person, during which property owners' association business or
3 policy over which the board has responsibility is discussed or
4 considered or during which the board takes formal action. The term
5 does not include the gathering of a quorum of the board at a social
6 function unrelated to the business of the association, or the
7 attendance by a quorum of the board at a regional, state, or
8 national convention, workshop, ceremonial event, or press
9 conference, if formal action is not taken and any discussion of
10 association business is incidental to the social function,
11 convention, workshop, ceremonial event, or press conference.

12 (c) Except as provided by this section, a meeting of the
13 property owners' association board or a committee or subcommittee
14 of the board is open to members of the property owners' association
15 and shall be held in a county in which all or part of the property
16 governed by the association is located or a county adjacent to that
17 county.

18 (d) The board shall keep a record of each regular,
19 emergency, or special board meeting in the form of written minutes
20 or an audio recording of the meeting. A record of a meeting must
21 state the subject of each motion or inquiry, regardless of whether
22 the board takes action on the motion or inquiry, and indicate each
23 vote, order, decision, or other action taken by the board. The
24 board shall make meeting records, including approved minutes,
25 available to a member for inspection and copying on the member's
26 written request to the board or the board's representative. The
27 board shall approve the minutes of a board meeting not later than

1 the next regular board meeting.

2 (e) The board shall give members notice of the date, hour,
3 place, and subject of a regular or special board meeting, including
4 a general description of any matters to be brought up for
5 deliberation in executive session. The notice shall be mailed to
6 each member or:

7 (1) posted at least 72 hours before the start of the
8 meeting in a conspicuous manner reasonably designed to provide
9 notice to association members:

10 (A) in a place located on the association's
11 common property or other conspicuously located property within the
12 association, with the property owner's consent; or

13 (B) on any Internet website maintained by the
14 association; and

15 (2) sent via e-mail to each owner who has registered an
16 e-mail address with the property owners' association; it is an
17 owner's duty to keep an e-mail address registered with the property
18 owners' association updated.

19 (f) If the board recesses a regular or special board meeting
20 to continue the following regular business day, the board is not
21 required to post notice of the continued meeting if the recess is
22 taken in good faith and not to circumvent this section. If a
23 regular or special board meeting is continued to the following
24 regular business day, and on that following day the board continues
25 the meeting to another day, the board shall give notice as required
26 by this section of the meeting continued to that other day.

27 (g) If at a regular, emergency, administrative, or special

1 meeting a member makes an inquiry regarding a subject for which
2 notice has not been given as required by this section, the notice
3 provisions of this section do not apply to:

4 (1) a statement by the board of specific factual
5 information given in response to the inquiry; or

6 (2) a recitation of existing policy in response to the
7 inquiry.

8 (h) Any deliberation of or decision relating to the subject
9 of an inquiry made under Subsection (g) shall be limited to a
10 proposal to place the subject on the agenda for a subsequent board
11 meeting.

12 (i) In the event of a reasonably unforeseen emergency or
13 urgent necessity that requires immediate board action, the board
14 may meet in an emergency board meeting. Notice for an emergency
15 board meeting may be given in at least one manner prescribed by
16 Subsection (e)(1) at least two hours before the emergency session
17 is convened and must clearly identify the emergency or urgent
18 necessity for which the notice is given. A board in an emergency
19 meeting may not consider fines, foreclosures, enforcement actions,
20 increases in assessments, or any other foreseeable business or
21 policy over which the board has responsibility. Any action taken in
22 an emergency board meeting must be summarized orally, including an
23 explanation of any known actual or estimated expenditures approved
24 at the meeting, and documented in the minutes or tape recording of
25 the next regular or special board meeting.

26 (j) A property owners' association board may hold an
27 administrative session, and that session is not subject to the

1 notice requirements of this section. In any administrative
2 session, the board may not take action regarding issuance of fines,
3 commencement of foreclosure proceedings, levying of a special
4 assessment, increases in assessments, or approval of items not
5 previously approved in the association's budget.

6 (k) Before the board calls an executive session, the board
7 shall convene in a regular or special board meeting for which notice
8 has been given as provided by this section. During that board
9 meeting, the presiding board member may call an executive session
10 by announcing that an executive session will be held to deliberate a
11 matter described by Subsection (l) and identifying the specific
12 subdivision of Subsection (l) under which the executive session
13 will be held. A vote or other action item may not be taken in
14 executive session.

15 (l) A board of a property owners' association may meet in
16 executive session, to which the members do not have access, to
17 deliberate:

18 (1) anticipated or pending litigation, settlement
19 offers, or interpretations of the law with the association's legal
20 counsel;

21 (2) complaints or charges against or issues regarding
22 a board member or agent, employee, contractor, or other
23 representative of the property owners' association;

24 (3) a payment plan under Section 209.0062;

25 (4) a foreclosure of a lien;

26 (5) an enforcement action against a member of the
27 association, including for nonpayment of amounts due;

1 (6) the purchase, exchange, lease, or value of real
2 property, if the board determines in good faith that deliberation
3 in an open board meeting may have a detrimental effect on the
4 association;

5 (7) business and financial issues relating to the
6 negotiation of a contract, if the board determines in good faith
7 that deliberation in an open board meeting may have a detrimental
8 effect on the position of the association; or

9 (8) matters involving the invasion of privacy of an
10 individual owner.

11 Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

12 (a) On or before the 30th day before the date an election or vote
13 is held by a property owners' association, the association shall
14 give each owner of property in the property owners' association
15 written notice of the election or vote.

16 (b) This section supersedes any contrary requirement in a
17 dedicatory instrument.

18 (c) This section does not apply to a property owners'
19 association that is subject to Chapter 552, Government Code, by
20 application of Section 552.0036, Government Code.

21 Sec. 209.0057. TABULATION OF VOTES. (a) This section does
22 not apply to a property owners' association that is subject to
23 Chapter 552, Government Code, by application of Section 552.0036,
24 Government Code.

25 (b) On the written petition of owners having at least 10
26 percent of all voting interests in a property owners' association
27 for a vote tabulation under this subsection, received by the

1 association at least 15 days before the first date that votes may be
2 cast, to tabulate the votes in any matter subject to a vote of the
3 members of a mandatory property owners' association, the
4 association shall enter into a contract for the services of a person
5 who is not a member of the association or related to a member of the
6 association board within the third degree by consanguinity or
7 affinity, as determined under Chapter 573, Government Code, and who
8 is a current or former:

9 (1) county judge;

10 (2) county elections administrator;

11 (3) justice of the peace; or

12 (4) county voter registrar.

13 (c) The name of each person tabulating votes of the members
14 of a property owners' association and the results of the tabulation
15 must be reflected in the minutes of the association.

16 (d) Any owner may, not later than the fifth day after the
17 date of the initial tabulation of votes, require a recount of the
18 votes. A demand for a recount must be submitted in writing either:

19 (1) in person to a property owners' association board
20 member;

21 (2) by certified mail, return receipt requested, or by
22 delivery by the United States Postal Service with signature
23 confirmation service to the association's mailing address on the
24 latest management certificate filed under Section 209.004; or

25 (3) in person to the association's managing agent as
26 reflected on the latest management certificate filed under Section
27 209.004.

1 (e) The property owners' association shall, at the expense
2 of the owner requesting the recount, retain for the purpose of
3 performing the recount the services of a person who is not a member
4 of the association or related to a member of the association board
5 within the third degree of consanguinity or affinity, as determined
6 under Chapter 573, Government Code and who is a current or former:

- 7 (1) county judge;
8 (2) county elections administrator;
9 (3) justice of the peace; or
10 (4) county voter registrar.

11 (f) Any recount under Subsection (d) must be performed on or
12 before the 30th day after the date of receipt of a request for and
13 payment for a recount in accordance with Subsections (d) and (e).
14 If the recount changes the results of the election, the association
15 shall reimburse the requesting owner for the cost of the recount.
16 Any action taken by the board in the period between the initial
17 election vote tally and the completion of the recount may not be
18 affected by any recount.

19 Sec. 209.0058. BALLOTS. (a) Any vote cast in an election
20 or vote by a member of a property owners' association must be in
21 writing and signed by the member.

22 (b) Electronic votes cast under Section 209.00593
23 constitute written and signed ballots.

24 (c) In an association-wide election, written and signed
25 ballots are not required for uncontested races.

26 Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a
27 dedicatory instrument that would disqualify a property owner from

1 voting in an association election of board members or on any matter
2 concerning the rights or responsibilities of the owner is void.

3 (b) This section does not apply to a property owners'
4 association that is subject to Chapter 552, Government Code, by
5 application of Section 552.0036, Government Code.

6 Sec. 209.00591. PROXY VOTING. A provision in any
7 dedicatory instrument that provides for a proxy vote in any matter
8 subject to a vote of the members of the property owners' association
9 is void.

10 Sec. 209.00592. BOARD MEMBERSHIP. (a) Except as provided
11 by Subsection (b), a provision in a dedicatory instrument that
12 restricts a property owner's right to run for a position on the
13 board of the property owners' association is void.

14 (b) If a board is presented with written, documented
15 evidence from a database or other record maintained by a
16 governmental law enforcement authority that a board member has been
17 convicted of a felony or crime involving moral turpitude, the board
18 member is immediately ineligible to serve on the board of the
19 property owners' association, automatically considered removed
20 from the board, and prohibited from future service on the board.

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

23 (1) in person at a meeting of the property owners'
24 association;

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

27 (3) by electronic ballot in accordance with this

1 section.

2 (b) An absentee or electronic ballot:

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

6 (2) may not be counted, even if properly delivered, if
7 the owner attends any meeting to vote in person, so that any vote
8 cast at a meeting by a property owner supersedes any vote submitted
9 by absentee or electronic ballot previously submitted for that
10 proposal; and

11 (3) may not be counted on the final vote of a proposal
12 if the motion was amended at the meeting to be different from the
13 exact language on the absentee or electronic ballot.

14 (c) A solicitation for votes by absentee ballot must
15 include:

16 (1) an absentee ballot that contains each proposed
17 action and provides an opportunity to vote for or against each
18 proposed action;

19 (2) instructions for delivery of the completed
20 absentee ballot, including the delivery location; and

21 (3) the following language: "By casting your vote via
22 absentee ballot you will forgo the opportunity to consider and vote
23 on any action from the floor on these proposals, if a meeting is
24 held. This means that if there are amendments to these proposals
25 your votes will not be counted on the final vote on these measures.
26 If you desire to retain this ability, please attend any meeting in
27 person. You may submit an absentee ballot and later choose to

1 attend any meeting in person, in which case any in-person vote will
2 prevail."

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

5 (1) given by:

6 (A) electronic mail;

7 (B) facsimile; or

8 (C) posting on an Internet website;

9 (2) for which the identity of the property owner
10 submitting the ballot can be confirmed; and

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

13 (e) If an electronic ballot is posted on an Internet
14 website, a notice of the posting shall be sent to each owner that
15 contains instructions on obtaining access to the posting on the
16 website.

17 (f) This section supersedes any contrary provision in a
18 dedicatory instrument.

19 (g) This section does not apply to a property owners'
20 association that is subject to Chapter 552, Government Code, by
21 application of Section 552.0036, Government Code.

22 SECTION 13. Section 209.006, Property Code, is amended by
23 amending Subsection (b) and adding Subsections (c), (d), (e), and
24 (f) to read as follows:

25 (b) The notice must:

26 (1) describe the violation or property damage that is
27 the basis for the suspension action, charge, or fine and state any

1 amount due the association from the owner; ~~and~~

2 (2) except as provided by Subsection (d), inform the
3 owner that the owner:

4 (A) is entitled to a reasonable period to cure
5 the violation and avoid the fine ~~[or suspension unless the owner was~~
6 ~~given notice and a reasonable opportunity to cure a similar~~
7 ~~violation within the preceding six months]~~; and

8 (B) may request a hearing under Section 209.007
9 on or before the 30th day after the date notice was delivered to the
10 owner;

11 (3) specify the date by which the owner must cure the
12 violation if the violation is of a curable nature and does not pose
13 a threat to public health or safety;

14 (4) specify the dollar amount of any fine the
15 association seeks to levy;

16 (5) specify each provision of the dedicatory
17 instrument the owner is alleged to have violated; and

18 (6) be sent by certified mail, return receipt
19 requested, or delivered by the United States Postal Service with
20 signature confirmation service to the owner at the owner's last
21 known address as shown on the association's records ~~[receives the~~
22 ~~notice]~~.

23 (c) The date specified in the notice under Subsection (b)(3)
24 must provide a reasonable period of at least 30 days for the owner
25 to cure the violation if the violation is of a curable nature and
26 does not pose a threat to public health or safety.

27 (d) Subsections (a) and (b) do not apply to a violation for

1 which the owner has been previously given notice under this section
2 and the opportunity to exercise any rights available under this
3 section in the preceding six months.

4 (e) If the property owner does not cure the violation in the
5 time provided under Subsection (c) and does not request a hearing
6 under Subsection (b)(2)(B), the property owners' association may
7 assess the fine and shall provide notice of the assessment to the
8 owner. If the property owner cures the violation before the
9 expiration period for cure specified under Subsection (c), any fine
10 assessed for the violation is void.

11 (f) For purposes of this section, a violation is considered
12 a threat to public health or safety if the violation could
13 materially affect the physical health or safety of an ordinary
14 resident.

15 SECTION 14. Chapter 209, Property Code, is amended by
16 adding Sections 209.0061, 209.0062, 209.0063, and 209.0064 to read
17 as follows:

18 Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed
19 by the property owners' association must be reasonable in the
20 context of the nature and frequency of the violation and the effect
21 of the violation on the subdivision as a whole. If the association
22 allows fines for a continuing violation to accumulate against a lot
23 or an owner, the association must establish a reasonable maximum
24 fine amount for a continuing violation, at which point the total
25 fine amount is capped.

26 (b) If a lot occupant other than the owner violates a
27 provision of the dedicatory instrument, the property owners'

1 association, in addition to exercising any of the association's
2 powers against the owner, may assess a fine directly against the
3 nonowner occupant in the same manner as provided for an owner but
4 may not require payment from both the owner and a nonowner occupant
5 for the same violation.

6 (c) If the property owners' association assesses a fine
7 against a nonowner occupant under this section, the notice
8 provisions of Section 209.006 and the hearing provisions of Section
9 209.007 apply to the nonowner occupant in the same manner as those
10 provisions apply to an owner.

11 Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN
12 ASSESSMENTS. (a) A property owners' association shall adopt
13 reasonable guidelines to establish an alternative payment schedule
14 by which an owner may make partial payments to the property owners'
15 association for delinquent regular or special assessments or any
16 other amount owed to the association without accruing additional
17 monetary penalties. For purposes of this section, monetary
18 penalties do not include reasonable costs associated with
19 administering the payment plan or interest.

20 (b) For any approved special assessment in an amount greater
21 than the equivalent of the sum of all regular assessments payable in
22 the year the special assessment is approved, a property owners'
23 association shall allow partial payments of the special assessment
24 for 12 months unless the property owner requests a shorter payment
25 period in writing at the time the property owner requests an
26 alternative payment plan. A property owners' association may offer
27 a reasonable discount for an owner making a one-time lump sum

1 payment of the special assessment.

2 (c) For any approved special assessment in an amount greater
3 than the equivalent of one-half the sum of all regular assessments
4 payable in the year the special assessment is approved, a property
5 owners' association shall allow partial payments of the special
6 assessment for six months unless the property owner requests a
7 shorter payment period in writing at the time the property owner
8 requests an alternative payment plan. A property owners'
9 association may offer a reasonable discount to an owner making a
10 one-time lump sum payment of the special assessment.

11 (d) A property owners' association is not required to allow
12 a payment plan for any amount that extends more than 12 months from
13 the date of the owner's request for a payment plan or to enter into a
14 payment plan with an owner who failed to honor the terms of a
15 previous payment plan during the five years following an owner's
16 default under a previous payment plan.

17 (e) A property owners' association shall file the
18 association's guidelines under this section in the real property
19 records of each county in which the subdivision is located.

20 (f) A property owners' association's failure to file as
21 required by this section the association's guidelines in the real
22 property records of each county in which the subdivision is located
23 does not prohibit a property owner from receiving an alternative
24 payment schedule by which the owner may make partial payments to the
25 property owners' association for delinquent regular or special
26 assessments or any other amount owed to the association without
27 accruing additional monetary penalties, as defined by Subsection

1 (a).

2 Sec. 209.0063. PRIORITY OF PAYMENTS. Unless otherwise
3 provided in writing by the property owner at the time payment is
4 made, a payment received by a property owners' association from the
5 owner shall be applied to the owner's debt in the following order of
6 priority:

7 (1) any delinquent assessment;

8 (2) any current assessment;

9 (3) any attorney's fees incurred by the association
10 associated solely with assessments or any other charge that could
11 provide the basis for foreclosure;

12 (4) any fines assessed by the association;

13 (5) any attorney's fees incurred by the association
14 that are not subject to Subdivision (3); and

15 (6) any other amount owed to the association.

16 Sec. 209.0064. COLLECTIONS. A property owners' association
17 must bring suit or otherwise initiate against an owner a collection
18 action authorized by the dedicatory instruments or other law on or
19 before the 10th anniversary of the date on which the cause of action
20 for collection of the debt accrues. Section 16.004, Civil Practice
21 and Remedies Code, does not apply to the collection of a debt owed
22 by an owner to a property owners' association.

23 SECTION 15. Section 209.007, Property Code, is amended by
24 amending Subsection (a) and adding Subsections (f), (g), (h), (i),
25 and (j) to read as follows:

26 (a) If the owner is entitled to an opportunity to cure the
27 violation, the owner has the right to submit a written request for a

1 hearing to discuss and verify facts and resolve the matter in issue
2 before a committee appointed by the board of the property owners'
3 association or before the board if the board does not appoint a
4 committee. The written request must contain a statement of the
5 grounds on which the owner believes the owner is not in violation
6 and citations of the dedicatory instrument for each violation
7 alleged.

8 (f) If the parties fail to reach agreement in or after the
9 hearing described by this section, the property owners' association
10 must file suit to uphold and enforce any fine sought to be assessed.
11 The suit must be filed in a justice court or small claims court not
12 later than the 180th day after the date of the hearing described by
13 this section or an appeal under Subsection (b), whichever is later.
14 The complaint must list each violation and be accompanied by
15 citation of the dedicatory instrument for each violation. If the
16 property owners' association does not file suit within the time
17 prescribed by this subsection, the association's right to collect
18 the fine is considered waived.

19 (g) Not later than the 30th day after the date a suit is
20 filed under Subsection (f), the court shall hold an evidentiary
21 hearing on the matter. The parties are not entitled to any
22 discovery.

23 (h) At the evidentiary hearing, the property owners'
24 association has the burden of proving by a preponderance of the
25 evidence that the property owner has violated a restrictive
26 covenant.

27 (i) The court shall determine whether a violation has

1 occurred and, if so, whether the fine for the violation is
2 reasonable considering the type, duration, and severity of the
3 violation.

4 (j) If the court finds that the position taken by either
5 party is groundless or is taken in bad faith, the court may award
6 the prevailing party's attorney's fees.

7 SECTION 16. Chapter 209, Property Code, is amended by
8 adding Section 209.0091 to read as follows:

9 Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except
10 as provided by Subsection (c), a property owners' association may
11 not foreclose a property owners' association assessment lien unless
12 the association first obtains a court order in an application for
13 expedited foreclosure under the rules adopted by the supreme court
14 under Subsection (b). A property owners' association may use the
15 procedure described by this subsection to foreclose any lien
16 described by the association's dedicatory instruments.

17 (b) The supreme court, as an exercise of the court's
18 authority under Section 74.024, Government Code, shall adopt rules
19 establishing expedited foreclosure proceedings for use by a
20 property owners' association in foreclosing an assessment lien of
21 the association. The rules adopted under this subsection must be
22 substantially similar to the rules adopted by the supreme court
23 under Section 50(r), Article XVI, Texas Constitution.

24 (c) Expedited foreclosure is not required under this
25 section if the owner of the property that is subject to foreclosure
26 agrees in writing at the time the foreclosure is sought to waive
27 expedited foreclosure under this section. A waiver under this

1 subsection may not be required as a condition of the transfer of
2 title to real property.

3 (d) A provision granting a right to foreclose a lien on real
4 property for unpaid amounts due to a property owners' association
5 may be removed from a dedicatory instrument or adopted in a
6 dedicatory instrument by a vote of at least 51 percent of the total
7 votes allocated to property owners in the property owners'
8 association. Owners holding at least 10 percent of all voting
9 interests in the property owners' association may petition the
10 association and require a special meeting to be called for the
11 purposes of taking a vote for the purposes of this section.

12 SECTION 17. Subsection (a), Section 209.010, Property Code,
13 is amended to read as follows:

14 Sec. 209.010. NOTICE AFTER FORECLOSURE SALE. (a) A
15 property owners' association that conducts a foreclosure sale of an
16 owner's lot must send to the lot owner and to each lienholder of
17 record, not later than the 30th day after the date of the
18 foreclosure sale, a written notice stating the date and time the
19 sale occurred and informing the lot owner and each lienholder of
20 record of the right of the lot owner and lienholder to redeem the
21 property under Section 209.011; and

22 (2) a copy of Section 209.011.

23 SECTION 18. Chapter 209, Property Code, is amended by
24 adding Section 209.014 to read as follows:

25 Sec. 209.014. RESTRICTIONS ON OWNERSHIP VOID. A property
26 owners' association may not prohibit an owner from owning multiple
27 properties governed by the property owners' association if the

1 cumulative voting rights of all of that owner's properties are 25
2 percent or less of all voting interests in the property owners'
3 association. This section does not apply during a development
4 period as defined by Section 202.011.

5 SECTION 19. Subsection (a), Section 211.002, Property Code,
6 is amended to read as follows:

7 (a) This chapter applies only to a residential real estate
8 subdivision or any unit or parcel of a subdivision to which another
9 chapter in this title that provides a procedure under which a
10 subdivision's restrictions may be amended does not apply [~~located~~
11 ~~in whole or in part within an unincorporated area of a county if the~~
12 ~~county has a population of less than 65,000~~].

13 SECTION 20. Subsection (c), Section 202.004, Property Code,
14 is amended to read as follows:

15 (c) For a violation of a restrictive covenant of a property
16 owners' association that is a mixed use master association that
17 existed before January 1, 1974, and that does not have the authority
18 under a dedicatory instrument or other governing document to impose
19 finer, a [A] court may assess civil damages [~~for the violation of a~~
20 ~~restrictive covenant~~] in an amount not to exceed \$200 for each day
21 of the violation.

22 SECTION 21. (a) Subsection (a), Section 5.006, Property
23 Code, as amended by this Act, applies only to an action filed on or
24 after the effective date of this Act. An action filed before the
25 effective date of this Act is governed by the law in effect
26 immediately before the effective date of this Act, and that law is
27 continued in effect for that purpose.

1 (b) Section 5.012, Property Code, as amended by this Act,
2 applies only to a sale of property that occurs on or after the
3 effective date of this Act. For the purposes of this section, a
4 sale of property occurs before the effective date of this Act if the
5 executory contract binding the purchaser to purchase the property
6 is executed before that date. A sale of property that occurs before
7 the effective date of this Act is governed by the law in effect
8 immediately before that date, and that law is continued in effect
9 for that purpose.

10 (c) Sections 202.015 and 209.0035, Property Code, as added
11 by this Act, apply only to a cause of action that accrues on or after
12 the effective date of this Act. A cause of action that accrues
13 before the effective date of this Act is governed by the law in
14 effect immediately before the effective date of this Act, and that
15 law is continued in effect for that purpose.

16 (d) Subsection (c), Section 202.004, Property Code, as
17 amended by this Act, applies only to an action brought on or after
18 the effective date of this Act. An action brought before the
19 effective date of this Act is governed by the law in effect
20 immediately before the effective date of this Act, and that law is
21 continued in effect for that purpose.

22 (e) Section 202.006, Property Code, as amended by this Act,
23 and Sections 202.008, 202.010, 202.011, 202.012, 202.014,
24 209.0059, and 209.00591 and Subsection (a), Section 209.00592, and
25 Section 209.014, Property Code, as added by this Act, apply to a
26 provision in a dedicatory instrument or a restrictive covenant
27 enacted before, on, or after the effective date of this Act, except

1 that any action taken before the effective date of this Act based on
2 an unfiled dedicatory instrument is not invalidated by Section
3 202.006, Property Code, as amended by this Act.

4 (f) Section 209.005, Property Code, as amended by this Act,
5 applies only to a request for information received by a property
6 owners' association on or after the effective date of this Act. A
7 request for information received by a property owners' association
8 before the effective date of this Act is governed by the law in
9 effect immediately before the effective date of this Act, and that
10 law is continued in effect for that purpose.

11 (g) Sections 209.0061, 209.0062, and 209.0064, Property
12 Code, as added by this Act, apply only to an assessment or other
13 debt that becomes due on or after the effective date of this Act. An
14 assessment or other debt that becomes due before the effective date
15 of this Act is governed by the law in effect immediately before the
16 effective date of this Act, and that law is continued in effect for
17 that purpose.

18 (h) Section 209.0063, Property Code, as added by this Act,
19 applies only to a payment received by a property owners'
20 association on or after the effective date of this Act. A payment
21 received by a property owners' association before the effective
22 date of this Act is governed by the law in effect immediately before
23 the effective date of this Act, and that law is continued in effect
24 for that purpose.

25 (i) Section 209.0091, Property Code, as added by this Act,
26 applies only to a foreclosure sale that occurs after January 1,
27 2012. A foreclosure sale that occurs on or before January 1, 2012,

1 is governed by the law in effect immediately before the effective
2 date of this Act, and that law is continued in effect for that
3 purpose.

4 (j) Subsection (a), Section 209.010, Property Code, as
5 amended by this Act, applies only to a foreclosure sale conducted on
6 or after the effective date of this Act. A foreclosure sale
7 conducted before the effective date of this Act is governed by the
8 law in effect immediately before the effective date of this Act, and
9 that law is continued in effect for that purpose.

10 SECTION 22. Not later than January 1, 2012, each property
11 owners' association shall present for recording with the county
12 clerk as prescribed by Section 202.006, Property Code, as amended
13 by this Act, each dedicatory instrument governing the association
14 that has not been previously recorded in the real property records
15 of the county.

16 SECTION 23. Not later than January 1, 2012, the Supreme
17 Court of Texas shall adopt rules of civil procedure under Section
18 209.0091, Property Code, as added by this Act.

19 SECTION 24. This Act takes effect January 1, 2012.

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