

1-1 By: West S.B. No. 142  
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,  
1-3 read first time and referred to Committee on Intergovernmental  
1-4 Relations; March 30, 2011, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 March 30, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 142 By: West

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to real property that is subject to restrictive covenants  
1-11 and the operation of property owners' associations of subdivisions  
1-12 that are subject to restrictive covenants.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (a), Section 5.006, Property Code, is  
1-15 amended to read as follows:

1-16 (a) In an action based on breach of a restrictive covenant  
1-17 pertaining to real property, the court shall allow to a prevailing  
1-18 party ~~[who asserted the action]~~ reasonable attorney's fees in  
1-19 addition to the party's costs and claim.

1-20 SECTION 2. Section 5.012, Property Code, is amended by  
1-21 amending Subsection (a) and adding Subsections (a-1), (f), and (g)  
1-22 to read as follows:

1-23 (a) A seller of residential real property that is subject to  
1-24 membership in a property owners' association and that comprises not  
1-25 more than one dwelling unit located in this state shall give to the  
1-26 purchaser of the property a written notice that reads substantially  
1-27 similar to the following:

1-28 NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION CONCERNING THE  
1-29 PROPERTY AT (street address) (name of residential community)

1-30 As a purchaser of property in the residential community in  
1-31 which this property is located, you are obligated to be a member of  
1-32 a property owners' association. Restrictive covenants governing  
1-33 the use and occupancy of the property and all ~~[a]~~ dedicatory  
1-34 instruments ~~[instrument]~~ governing the establishment, maintenance,  
1-35 or ~~[and]~~ operation of this residential community have been or will  
1-36 be recorded in the Real Property Records of the county in which the  
1-37 property is located. Copies of the restrictive covenants and  
1-38 dedicatory instruments ~~[instrument]~~ may be obtained from the county  
1-39 clerk.

1-40 You are obligated to pay assessments to the property owners'  
1-41 association. The amount of the assessments is subject to change.  
1-42 Your failure to pay the assessments could result in enforcement of  
1-43 the association's ~~[a]~~ lien on and the foreclosure of your property.

1-44 Section 207.003, Property Code, entitles an owner to receive  
1-45 copies of any document that governs the establishment, maintenance,  
1-46 or operation of a subdivision, including, but not limited to,  
1-47 restrictions, bylaws, rules and regulations, and a resale  
1-48 certificate from a property owners' association. A resale  
1-49 certificate contains information including, but not limited to,  
1-50 statements specifying the amount and frequency of regular  
1-51 assessments and the style and cause number of lawsuits to which the  
1-52 property owners' association is a party, other than lawsuits  
1-53 relating to unpaid ad valorem taxes of an individual member of the  
1-54 association. These documents must be made available to you by the  
1-55 property owners' association or the association's agent on your  
1-56 request.

1-57 Date: \_\_\_\_\_

1-58 \_\_\_\_\_  
1-59 Signature of Purchaser

1-59 (a-1) The second paragraph of the notice prescribed by  
1-60 Subsection (a) must be in bold print and underlined.

1-61 (f) On the purchaser's request for a resale certificate from  
1-62 the property owners' association or the association's agent, the  
1-63 association or its agent shall promptly deliver a copy of the most

2-1 recent resale certificate issued for the property under Chapter 207  
 2-2 so long as the resale certificate was prepared not earlier than the  
 2-3 60th day before the date the resale certificate is delivered to the  
 2-4 purchaser and reflects any special assessments approved before and  
 2-5 due after the resale certificate is delivered. If a resale  
 2-6 certificate that meets the requirements of this subsection has not  
 2-7 been issued for the property, the seller shall request the  
 2-8 association or its agent to issue a resale certificate under  
 2-9 Chapter 207, and the association or its agent shall promptly  
 2-10 prepare and deliver a copy of the resale certificate to the  
 2-11 purchaser.

2-12 (g) The purchaser shall pay the fee to the property owners'  
 2-13 association or its agent for issuing the resale certificate unless  
 2-14 otherwise agreed. The property owners' association may not process  
 2-15 a payment for a resale certificate requested under Chapter 207  
 2-16 until the certificate is available for delivery. The association  
 2-17 may not charge a fee if the certificate is not provided in the time  
 2-18 prescribed by Section 207.003(a).

2-19 SECTION 3. Subsection (c), Section 5.017, Property Code, is  
 2-20 amended to read as follows:

2-21 (c) This section does not apply to a deed restriction or  
 2-22 other covenant running with the land that requires a fee associated  
 2-23 with the conveyance of property in a subdivision that is payable:

2-24 (1) to:

2-25 (A) ~~[(1)]~~ a property owners' association that  
 2-26 manages or regulates the subdivision or the association's managing  
 2-27 agent if the subdivision contains more than one platted lot;

2-28 (B) ~~[(2)]~~ an entity organized under Section  
 2-29 501(c)(3), Internal Revenue Code of 1986; ~~[or]~~

2-30 (C) ~~[(3)]~~ a governmental entity; or

2-31 (D) an entity other than a property owners'  
 2-32 association that operates a golf course and country club in or  
 2-33 adjacent to the subdivision if property owners in the subdivision  
 2-34 are required by deed restriction to obtain and maintain a  
 2-35 membership in the golf course and country club; or

2-36 (2) for the benefit or in consideration of a  
 2-37 conservation easement created under Chapter 183, Natural Resources  
 2-38 Code, located in a county that:

2-39 (A) has a population of at least 750,000 and not  
 2-40 more than 1.1 million; and

2-41 (B) is not adjacent to a county with a population  
 2-42 of two million or more.

2-43 SECTION 4. Subdivision (1), Section 202.001, Property Code,  
 2-44 is amended to read as follows:

2-45 (1) "Dedictory instrument" means each document  
 2-46 governing ~~[instrument covering]~~ the establishment, maintenance, or  
 2-47 ~~[and]~~ operation of a residential subdivision, planned unit  
 2-48 development, condominium or townhouse regime, or any similar  
 2-49 planned development. The term includes a declaration or similar  
 2-50 instrument subjecting real property to:

2-51 (A) restrictive covenants, bylaws, or similar  
 2-52 instruments governing the administration or operation of a property  
 2-53 owners' association;

2-54 (B) ~~[, to]~~ properly adopted rules and regulations  
 2-55 of the property owners' association; or

2-56 (C) ~~[, or to]~~ all lawful amendments to the  
 2-57 covenants, bylaws, instruments, rules, or regulations.

2-58 SECTION 5. Subsection (c), Section 202.004, Property Code,  
 2-59 is amended to read as follows:

2-60 (c) For a violation of a restrictive covenant of a property  
 2-61 owners' association that is a mixed use master association that  
 2-62 existed before January 1, 1974, and that does not have the authority  
 2-63 under a dedicatory instrument or other governing document to impose  
 2-64 finer, a [A] court may assess civil damages [for the violation of a  
 2-65 restrictive covenant] in an amount not to exceed \$200 for each day  
 2-66 of the violation.

2-67 SECTION 6. Section 202.006, Property Code, is amended to  
 2-68 read as follows:

2-69 Sec. 202.006. PUBLIC RECORDS. (a) A property owners'

3-1 association shall file all [~~the~~] dedicatory instruments  
3-2 [instrument] in the real property records of each county in which  
3-3 the property to which the dedicatory instruments relate [~~instrument~~  
3-4 ~~relates~~] is located.

3-5 (b) A dedicatory instrument has no effect until the  
3-6 instrument is filed in accordance with this section.

3-7 SECTION 7. Chapter 202, Property Code, is amended by adding  
3-8 Sections 202.011, 202.012, and 202.013 to read as follows:

3-9 Sec. 202.011. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In  
3-10 this section, "development period" means a period stated in a  
3-11 declaration during which a declarant reserves:

3-12 (1) a right to facilitate the development,  
3-13 construction, and marketing of the subdivision; and

3-14 (2) a right to direct the size, shape, and composition  
3-15 of the subdivision.

3-16 (b) To the extent a restrictive covenant provides a right of  
3-17 first refusal for the sale or lease of a residential unit or  
3-18 residential lot in favor of the property owners' association or the  
3-19 association's members, the covenant is void.

3-20 (c) This section does not apply to a restrictive covenant  
3-21 that provides a right of first refusal in favor of a developer or  
3-22 builder during the development period.

3-23 Sec. 202.012. REGULATION OF SOLAR ENERGY DEVICES. (a) In  
3-24 this section, "solar energy device" has the meaning assigned by  
3-25 Section 171.107, Tax Code.

3-26 (b) Except as otherwise provided by this section, a property  
3-27 owners' association may not include or enforce a provision in a  
3-28 dedicatory instrument that prohibits or restricts a property owner  
3-29 from installing a solar energy device.

3-30 (c) A provision that violates Subsection (b) is void.

3-31 (d) A property owners' association may include or enforce a  
3-32 provision in a dedicatory instrument that prohibits a solar energy  
3-33 device that:

3-34 (1) as adjudicated by a court:

3-35 (A) threatens the public health or safety; or

3-36 (B) violates a law;

3-37 (2) is located on property owned or maintained by the  
3-38 property owners' association;

3-39 (3) is located on property owned in common by the  
3-40 members of the property owners' association;

3-41 (4) is located in an area on the property owner's  
3-42 property other than:

3-43 (A) on the roof of the home or of another  
3-44 structure allowed under a dedicatory instrument; or

3-45 (B) in a fenced yard or patio owned and  
3-46 maintained by the property owner;

3-47 (5) if mounted on the roof of the home:

3-48 (A) extends higher than or beyond the roofline;

3-49 (B) is located in an area other than an area  
3-50 designated by the property owners' association, unless the

3-51 alternate location increases the estimated annual energy  
3-52 production of the device, as determined by using a publicly

3-53 available modeling tool provided by the National Renewable Energy  
3-54 Laboratory, by more than 10 percent above the energy production of

3-55 the device if located in an area designated by the property owners'  
3-56 association;

3-57 (C) does not conform to the slope of the roof and  
3-58 has a top edge that is not parallel to the roofline; or

3-59 (D) has a frame, a support bracket, or visible  
3-60 pipng or wiring that is not in a silver, bronze, or black tone  
3-61 commonly available in the marketplace;

3-62 (6) if located in a fenced yard or patio, is taller  
3-63 than the fence line;

3-64 (7) as installed, voids material warranties; or

3-65 (8) was installed without prior approval by the  
3-66 property owners' association or by a committee created in a

3-67 dedicatory instrument for such purposes that provides decisions  
3-68 within a reasonable period or within a period specified in the

3-69 dedicatory instrument.

4-1           (e) A property owners' association or the association's  
 4-2 architectural review committee may not withhold approval for  
 4-3 installation of a solar energy device if the provisions of the  
 4-4 dedicatory instruments, to the extent authorized by this section,  
 4-5 are met or exceeded, unless the association or committee, as  
 4-6 applicable, determines in writing that placement of the device as  
 4-7 proposed by the property owner constitutes a condition that  
 4-8 substantially interferes with the use and enjoyment of land by  
 4-9 causing unreasonable discomfort or annoyance to persons of ordinary  
 4-10 sensibilities.

4-11           Sec. 202.013. RESTRICTIONS REQUIRING CAPITAL IMPROVEMENTS.  
 4-12 (a) A dedicatory instrument may not be amended to retroactively  
 4-13 require a person who owns property subject to the dedicatory  
 4-14 instrument at the time the amendment is adopted to make a capital  
 4-15 improvement to the owner's property that is not required before the  
 4-16 amendment.

4-17           (b) For the purposes of this section, "capital improvement"  
 4-18 means items such as additional tree plantings, additional sodding,  
 4-19 fence construction, hardscape installation, new construction, or  
 4-20 any similar capital improvement. The term does not include repair  
 4-21 or maintenance of existing improvements or the removal of  
 4-22 conditions that are in violation of a dedicatory instrument.

4-23           SECTION 8. Subsections (a), (b), and (c), Section 207.003,  
 4-24 Property Code, are amended to read as follows:

4-25           (a) Not later than the 10th day after the date a written  
 4-26 request for subdivision information is received from an owner,  
 4-27 owner's agent, or title insurance company or its agent acting on  
 4-28 behalf of the owner, the property owners' association shall deliver  
 4-29 to the owner, owner's agent, or title insurance company or its  
 4-30 agent:

4-31           (1) a current copy of the restrictions applying to the  
 4-32 subdivision;

4-33           (2) a current copy of the bylaws and rules of the  
 4-34 property owners' association; and

4-35           (3) a resale certificate prepared not earlier than the  
 4-36 60th day before the date the certificate is delivered that complies  
 4-37 with Subsection (b).

4-38           (b) A resale certificate under Subsection (a) must contain:

4-39           (1) a statement of any right of first refusal, other  
 4-40 than a right of first refusal that is prohibited by statute, and any  
 4-41 [~~or~~] other restraint contained in the restrictions or restrictive  
 4-42 covenants that restricts the owner's right to transfer the owner's  
 4-43 property;

4-44           (2) the frequency and amount of any regular  
 4-45 assessments;

4-46           (3) the amount and purpose of any special assessment  
 4-47 that has been approved before and is due after [the date] the resale  
 4-48 certificate is delivered [prepared];

4-49           (4) the total of all amounts due and unpaid to the  
 4-50 property owners' association that are attributable to the owner's  
 4-51 property;

4-52           (5) capital expenditures, if any, approved by the  
 4-53 property owners' association for the property owners' association's  
 4-54 current fiscal year;

4-55           (6) the amount of reserves, if any, for capital  
 4-56 expenditures;

4-57           (7) the property owners' association's current  
 4-58 operating budget and balance sheet;

4-59           (8) the total of any unsatisfied judgments against the  
 4-60 property owners' association;

4-61           (9) the style and cause number of any pending lawsuit  
 4-62 in which the property owners' association is a party, other than a  
 4-63 lawsuit relating to unpaid ad valorem taxes of an individual member  
 4-64 of the association [defendant];

4-65           (10) a copy of a certificate of insurance showing the  
 4-66 property owners' association's property and liability insurance  
 4-67 relating to the common areas and common facilities;

4-68           (11) a description of any conditions on the owner's  
 4-69 property that the property owners' association board has actual

5-1 knowledge are in violation of the restrictions applying to the  
 5-2 subdivision or the bylaws or rules of the property owners'  
 5-3 association;

5-4 (12) a summary or copy of notices received by the  
 5-5 property owners' association from any governmental authority  
 5-6 regarding health or housing code violations existing on the  
 5-7 preparation date of the certificate relating to the owner's  
 5-8 property or any common areas or common facilities owned or leased by  
 5-9 the property owners' association;

5-10 (13) the amount of any administrative transfer fee  
 5-11 charged by the property owners' association for a change of  
 5-12 ownership of property in the subdivision;

5-13 (14) the name, mailing address, and telephone number  
 5-14 of the property owners' association's managing agent, if any; ~~and~~

5-15 (15) a statement indicating whether the restrictions  
 5-16 allow foreclosure of a property owners' association's lien on the  
 5-17 owner's property for failure to pay assessments; and

5-18 (16) a statement of all fees associated with the  
 5-19 transfer of ownership, including a description of each fee, to whom  
 5-20 each fee is paid, and the amount of each fee.

5-21 (c) A property owners' association may charge a reasonable  
 5-22 fee to assemble, copy, and deliver the information required by this  
 5-23 section and may charge a reasonable fee to prepare and deliver an  
 5-24 update of a resale certificate under Subsection (f). A purchaser  
 5-25 requesting a resale certificate under Section 5.012 or on whose  
 5-26 behalf the resale certificate is requested shall pay the fees  
 5-27 charged under this subsection unless otherwise agreed.

5-28 SECTION 9. Chapter 207, Property Code, is amended by adding  
 5-29 Section 207.006 to read as follows:

5-30 Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. A  
 5-31 property owners' association shall make dedicatory instruments  
 5-32 relating to the association or subdivision and filed in the county  
 5-33 deed records available on a website if the association has, or a  
 5-34 management company on behalf of the association maintains, a  
 5-35 publicly accessible website.

5-36 SECTION 10. Section 209.003, Property Code, is amended by  
 5-37 adding Subsection (e) to read as follows:

5-38 (e) The following provisions of this chapter do not apply to  
 5-39 a property owners' association that is a mixed-use master  
 5-40 association that existed before January 1, 1974, and that does not  
 5-41 have the authority under a dedicatory instrument or other governing  
 5-42 document to impose fines:

5-43 (1) Section 209.005(c);

5-44 (2) Section 209.0056;

5-45 (3) Section 209.0057;

5-46 (4) Section 209.0058;

5-47 (5) Section 209.00592; and

5-48 (6) Section 209.0062.

5-49 SECTION 11. Chapter 209, Property Code, is amended by  
 5-50 adding Section 209.0041 to read as follows:

5-51 Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY  
 5-52 INSTRUMENTS. (a) This section applies to a residential  
 5-53 subdivision in which property owners are subject to mandatory  
 5-54 membership in a property owners' association.

5-55 (b) This section does not apply to a property owners'  
 5-56 association that is subject to Chapter 552, Government Code, by  
 5-57 application of Section 552.0036, Government Code.

5-58 (c) This section does not apply to the amendment of a  
 5-59 declaration during a development period, as defined by Section  
 5-60 202.011.

5-61 (d) This section applies to a dedicatory instrument  
 5-62 regardless of the date on which the dedicatory instrument was  
 5-63 created.

5-64 (e) This section supersedes any contrary requirement in a  
 5-65 dedicatory instrument.

5-66 (f) To the extent of any conflict with another provision of  
 5-67 this title, this section prevails.

5-68 (g) A declaration may be amended only by a vote of at least  
 5-69 67 percent of the total votes allocated to property owners in the

6-1 property owners' association, in addition to any governmental  
 6-2 approval required by law.

6-3 (h) A provision in a dedicatory instrument may not be  
 6-4 adopted that allows the property owners' association board to  
 6-5 self-perpetuate. A provision in a dedicatory instrument that  
 6-6 violates this subsection is void.

6-7 (i) A bylaw may not be amended, and a rule or guideline may  
 6-8 not be adopted, to expand the property owners' association's powers  
 6-9 beyond the powers granted by any other dedicatory instrument.

6-10 SECTION 12. Section 209.005, Property Code, is amended to  
 6-11 read as follows:

6-12 Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided  
 6-13 by Subsection (b), this section applies to all property owners'  
 6-14 associations and controls over other law not specifically  
 6-15 applicable to a property owners' association.

6-16 (b) This section does not apply to a property owners'  
 6-17 association that is subject to Chapter 552, Government Code, by  
 6-18 application of Section 552.0036, Government Code.

6-19 (c) Notwithstanding a provision in a dedicatory instrument,  
 6-20 a [A] property owners' association shall make the books and records  
 6-21 of the association, including financial records, open to and  
 6-22 reasonably available for examination by [±] an owner, or an  
 6-23 owner's agent, attorney, or certified public accountant, in  
 6-24 accordance with this section. An owner is entitled to obtain from  
 6-25 the association copies of information contained in the books and  
 6-26 records [Section B, Article 2.23, Texas Non-Profit Corporation Act  
 6-27 (Article 1396-2.23, Vernon's Texas Civil Statutes)].

6-28 (d) Except as provided by this subsection, an [(a-1) A  
 6-29 property owners' association described by Section 552.0036(2),  
 6-30 Government Code, shall make the books and records of the  
 6-31 association, including financial records, reasonably available to  
 6-32 any person requesting access to the books or records in accordance  
 6-33 with Chapter 552, Government Code. Subsection (a) does not apply to  
 6-34 a property owners' association to which this subsection applies.

6-35 [(b) An] attorney's files and records relating to the  
 6-36 property owners' association, excluding invoices requested by an  
 6-37 owner under Section 209.008(d), are not[±

6-38 [(1)] records of the association and are not[±

6-39 [(2)] subject to inspection by the owner[±] or

6-40 [(3) subject to] production in a legal proceeding. If

6-41 a document in an attorney's files and records relating to the  
 6-42 association would be responsive to a legally authorized request to  
 6-43 inspect or copy association documents, the document shall be  
 6-44 produced by using the copy from the attorney's files and records if  
 6-45 the association has not maintained a separate copy of the document.  
 6-46 This subsection does not require production of a document that  
 6-47 constitutes attorney work product or that is privileged as an  
 6-48 attorney-client communication.

6-49 (e) An owner or the owner's authorized representative  
 6-50 described by Subsection (c) must submit a written request for  
 6-51 access or information under Subsection (c) by certified mail, with  
 6-52 sufficient detail describing the property owners' association's  
 6-53 books and records requested, to the mailing address of the  
 6-54 association or authorized representative as reflected on the most  
 6-55 current management certificate filed under Section 209.004. The  
 6-56 request must contain an election either to inspect the books and  
 6-57 records before obtaining copies or to have the property owners'  
 6-58 association forward copies of the requested books and records and:

6-59 (1) if an inspection is requested, the association, on  
 6-60 or before the 10th business day after the date the association  
 6-61 receives the request, shall send written notice of dates during  
 6-62 normal business hours that the owner may inspect the requested  
 6-63 books and records to the extent those books and records are in the  
 6-64 possession, custody, or control of the association; or

6-65 (2) if copies of identified books and records are  
 6-66 requested, the association shall, to the extent those books and  
 6-67 records are in the possession, custody, or control of the  
 6-68 association, produce the requested books and records for the  
 6-69 requesting party on or before the 10th business day after the date

7-1 the association receives the request, except as otherwise provided  
7-2 by this section.

7-3 (f) If the property owners' association is unable to produce  
7-4 the books or records requested under Subsection (e) on or before the  
7-5 10th business day after the date the association receives the  
7-6 request, the association must provide to the requestor written  
7-7 notice that:

7-8 (1) informs the requestor that the association is  
7-9 unable to produce the information on or before the 10th business day  
7-10 after the date the association received the request; and

7-11 (2) states a date by which the information will be sent  
7-12 or made available for inspection to the requesting party that is not  
7-13 later than the 15th business day after the date notice under this  
7-14 subsection is given.

7-15 (g) If an inspection is requested or required, the  
7-16 inspection shall take place at a mutually agreed on time during  
7-17 normal business hours, and the requesting party shall identify the  
7-18 books and records for the property owners' association to copy and  
7-19 forward to the requesting party.

7-20 (h) A property owners' association may produce books and  
7-21 records requested under this section in hard copy, electronic, or  
7-22 other format reasonably available to the association.

7-23 (i) An owner is responsible for costs related to compilation  
7-24 and reproduction of the requested information in an amount that  
7-25 would be allowed under Section 552.261, Government Code, for public  
7-26 information. The property owners' association may require advance  
7-27 payment of the estimated costs of compilation and reproduction if  
7-28 the request will result in costs that would exceed the costs for  
7-29 which a written itemized statement would be required under Section  
7-30 552.2615(a), Government Code, for a similar request. If the  
7-31 estimated costs are lesser or greater than the actual costs, the  
7-32 association shall submit a final invoice to the owner on or before  
7-33 the 30th business day after the date the information is delivered.  
7-34 If the final invoice includes additional amounts due from the  
7-35 owner, the additional amounts, if not reimbursed to the association  
7-36 before the 30th business day after the date the invoice is sent to  
7-37 the owner, may be added to the owner's account as an assessment. If  
7-38 the estimated costs exceeded the final invoice amount, the owner is  
7-39 entitled to a refund, and the refund shall be issued to the owner  
7-40 not later than the 30th business day after the date the invoice is  
7-41 sent to the owner.

7-42 (j) A property owners' association must estimate costs  
7-43 under this section using the Public Information Cost Estimate Model  
7-44 provided by the open records division of the office of the attorney  
7-45 general or a similar model.

7-46 (k) Except as provided by Subsection (l), the property  
7-47 owners' association is not required, other than in meeting minutes,  
7-48 to release or allow inspection of any books or records that identify  
7-49 the dedicatory instrument violation history of an individual owner  
7-50 of an association, an owner's personal financial information,  
7-51 including records of payment or nonpayment of amounts due the  
7-52 association, an owner's contact information, other than the owner's  
7-53 address, or information related to an employee of the association,  
7-54 including personnel files. Information may be released in an  
7-55 aggregate or summary manner that would not identify an individual  
7-56 property owner.

7-57 (l) The books and records described by Subsection (k) shall  
7-58 be released or made available for inspection if:

7-59 (1) the express written approval of the owner whose  
7-60 records are the subject of the request for inspection is provided to  
7-61 the property owners' association; or

7-62 (2) a court orders the release of the books and records  
7-63 or orders that the books and records be made available for  
7-64 inspection.

7-65 (m) A property owners' association composed of more than 14  
7-66 lots shall adopt and comply with a document retention policy that  
7-67 includes, at a minimum, the following requirements:

7-68 (1) certificates of formation, bylaws, restrictive  
7-69 covenants, and all amendments to the certificates of formation,

8-1 bylaws, and covenants shall be retained permanently;  
8-2 (2) financial books and records shall be retained for  
8-3 seven years;  
8-4 (3) account records of current owners shall be  
8-5 retained for five years;  
8-6 (4) contracts with a term of one year or more shall be  
8-7 retained for four years after the expiration of the contract term;  
8-8 (5) minutes of meetings of the owners and the board  
8-9 shall be retained for seven years; and  
8-10 (6) tax returns and audit records shall be retained  
8-11 for seven years.  
8-12 (n) A member of a property owners' association who is denied  
8-13 access to or copies of association books or records to which the  
8-14 member is entitled under this section may file a petition with the  
8-15 justice of the peace of a justice precinct in which all or part of  
8-16 the property that is governed by the association is located  
8-17 requesting relief in accordance with this subsection. If the  
8-18 justice of the peace finds that the member is entitled to access to  
8-19 or copies of the records, the justice of the peace may grant one or  
8-20 more of the following remedies:  
8-21 (1) a judgment ordering the property owners'  
8-22 association to release or allow access to the books or records;  
8-23 (2) a judgment against the property owners'  
8-24 association for court costs and attorney's fees incurred in  
8-25 connection with seeking a remedy under this section; or  
8-26 (3) a judgment authorizing the owner or the owner's  
8-27 assignee to deduct the amounts awarded under Subdivision (2) from  
8-28 any future regular or special assessments payable to the property  
8-29 owners' association.  
8-30 (o) If the property owners' association prevails in an  
8-31 action under Subsection (n), the association is entitled to a  
8-32 judgment for court costs and attorney's fees incurred by the  
8-33 association in connection with the action.  
8-34 (p) On or before the 10th business day before the date a  
8-35 person brings an action against a property owners' association  
8-36 under this section, the person must send written notice to the  
8-37 association of the person's intent to bring the action. The notice  
8-38 must:  
8-39 (1) be sent certified mail, return receipt requested,  
8-40 or delivered by the United States Postal Service with signature  
8-41 confirmation service; and  
8-42 (2) describe with sufficient detail the books and  
8-43 records being requested.  
8-44 (q) For the purposes of this section, "business day" means a  
8-45 day other than Saturday, Sunday, or a state or federal holiday.  
8-46 SECTION 13. Chapter 209, Property Code, is amended by  
8-47 adding Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059,  
8-48 209.00591, and 209.00592 to read as follows:  
8-49 Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does  
8-50 not apply to a property owners' association that is subject to  
8-51 Chapter 551, Government Code, by application of Section 551.0015,  
8-52 Government Code.  
8-53 (b) In this section, "board meeting" means a deliberation  
8-54 between a quorum of the voting board of the property owners'  
8-55 association, or between a quorum of the voting board and another  
8-56 person, during which property owners' association business is  
8-57 considered and the board takes formal action. The term does not  
8-58 include:  
8-59 (1) the gathering of a quorum of the board at a board  
8-60 workshop where formal action is not taken; or  
8-61 (2) the gathering of a quorum of the board at a social  
8-62 function unrelated to the business of the association or the  
8-63 attendance by a quorum of the board at a regional, state, or  
8-64 national convention, ceremonial event, or press conference, if  
8-65 formal action is not taken and any discussion of association  
8-66 business is incidental to the social function, convention,  
8-67 ceremonial event, or press conference.  
8-68 (c) Regular and special board meetings must be open to  
8-69 owners, subject to the right of the board to adjourn a board meeting



9-1 and reconvene in closed executive session to consider actions  
 9-2 involving personnel, pending or threatened litigation, contract  
 9-3 negotiations, enforcement actions, confidential communications  
 9-4 with the property owners' association's attorney, matters involving  
 9-5 the invasion of privacy of individual owners, or matters that are to  
 9-6 remain confidential by request of the affected parties and  
 9-7 agreement of the board. Following an executive session, any  
 9-8 decision made in the executive session must be summarized orally,  
 9-9 in general terms, without breaching the privacy of individual  
 9-10 owners, violating any privilege, or disclosing information that was  
 9-11 to remain confidential at the request of the affected parties. The  
 9-12 oral summary must include a general explanation of expenditures  
 9-13 approved in executive session.

9-14 (c-1) Except for a meeting held by electronic or telephonic  
 9-15 means under Subsection (h), a board meeting must be held in a county  
 9-16 in which all or part of the property in the subdivision is located  
 9-17 or in a county adjacent to that county.

9-18 (d) The board shall keep a record of each regular or special  
 9-19 board meeting in the form of written minutes of the meeting. The  
 9-20 board shall make meeting records, including approved minutes,  
 9-21 available to a member for inspection and copying on the member's  
 9-22 written request to the property owners' association's managing  
 9-23 agent at the address appearing on the most recently filed  
 9-24 management certificate or, if there is not a managing agent, to the  
 9-25 board.

9-26 (e) Members shall be given notice of the date, hour, place,  
 9-27 and general subject of a regular or special board meeting,  
 9-28 including a general description of any matter to be brought up for  
 9-29 deliberation in executive session. The notice shall be:

9-30 (1) mailed to each property owner not later than the  
 9-31 10th day or earlier than the 60th day before the date of the  
 9-32 meeting; or

9-33 (2) provided at least 72 hours before the start of the  
 9-34 meeting by:

9-35 (A) posting the notice in a conspicuous manner  
 9-36 reasonably designed to provide notice to property owners'  
 9-37 association members:

9-38 (i) in a place located on the association's  
 9-39 common property or, with the property owner's consent, on other  
 9-40 conspicuously located privately owned property within the  
 9-41 subdivision; or

9-42 (ii) on any Internet website maintained by  
 9-43 the association or other Internet media; and

9-44 (B) sending the notice by e-mail to each owner  
 9-45 who has registered an e-mail address with the association.

9-46 (f) It is an owner's duty to keep an updated e-mail address  
 9-47 registered with the property owners' association under Subsection  
 9-48 (e)(2)(B).

9-49 (g) If the board recesses a regular or special board meeting  
 9-50 to continue the following regular business day, the board is not  
 9-51 required to post notice of the continued meeting if the recess is  
 9-52 taken in good faith and not to circumvent this section. If a  
 9-53 regular or special board meeting is continued to the following  
 9-54 regular business day, and on that following day the board continues  
 9-55 the meeting to another day, the board shall give notice of the  
 9-56 continuation in at least one manner prescribed by Subsection  
 9-57 (e)(2)(A) within two hours after adjourning the meeting being  
 9-58 continued.

9-59 (h) A board may meet by any method of communication,  
 9-60 including electronic and telephonic, without prior notice to owners  
 9-61 under Subsection (e), if each director may hear and be heard by  
 9-62 every other director, or the board may take action by unanimous  
 9-63 written consent to consider routine and administrative matters or a  
 9-64 reasonably unforeseen emergency or urgent necessity that requires  
 9-65 immediate board action. The board may not, without prior notice to  
 9-66 owners under Subsection (e), consider or vote on fines, damage  
 9-67 assessments, initiation of foreclosure actions, initiation of  
 9-68 enforcement actions, excluding temporary restraining orders or  
 9-69 violations involving a threat to health or safety, increases in

assessments, levying of special assessments, appeals from a denial of architectural control approval, or a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue. Any action taken without notice to owners under Subsection (e) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting.

(i) This section applies to a meeting of a property owners' association board during the development period, as defined by Section 202.011, only if the meeting is conducted for the purpose of:

(1) adopting or amending the governing documents, including declarations, bylaws, rules, and regulations of the association;

(2) increasing the amount of regular assessments of the association or adopting or increasing a special assessment;

(3) electing non-developer board members of the association or establishing a process by which those members are elected; or

(4) changing the voting rights of members of the association.

Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

(a) A property owners' association shall give each owner of property in the property owners' association written notice of the election or vote not later than the 10th day or earlier than the 60th day before the date of the election or vote.

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

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

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

(b) Any owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

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

(2) in person to the property owners' association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

(c) The property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this subsection. The association shall enter into a contract for the services of a person who:

(1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) is:

(A) a current or former:

(i) county judge;

(ii) county elections administrator;

(iii) justice of the peace; or

(iv) county voter registrar; or

(B) a person agreed on by the association and the persons requesting the recount.

(d) Any recount under Subsection (b) must be performed on or before the 30th day after the date of receipt of a request and

11-1 payment for a recount in accordance with Subsections (b) and (c).  
 11-2 If the recount changes the results of the election, the property  
 11-3 owners' association shall reimburse the requesting owner for the  
 11-4 cost of the recount. Any action taken by the board in the period  
 11-5 between the initial election vote tally and the completion of the  
 11-6 recount is not affected by any recount.

11-7 Sec. 209.0058. BALLOTS. (a) Any vote cast in an election  
 11-8 or vote by a member of a property owners' association must be in  
 11-9 writing and signed by the member.

11-10 (b) Electronic votes cast under Section 209.00592  
 11-11 constitute written and signed ballots.

11-12 (c) In an association-wide election, written and signed  
 11-13 ballots are not required for uncontested races.

11-14 Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a  
 11-15 dedicatory instrument that would disqualify a property owner from  
 11-16 voting in a property owners' association election of board members  
 11-17 or on any matter concerning the rights or responsibilities of the  
 11-18 owner is void.

11-19 (b) This section does not apply to a property owners'  
 11-20 association that is subject to Chapter 552, Government Code, by  
 11-21 application of Section 552.0036, Government Code.

11-22 Sec. 209.00591. BOARD MEMBERSHIP. (a) Except as provided  
 11-23 by this section, a provision in a dedicatory instrument that  
 11-24 restricts a property owner's right to run for a position on the  
 11-25 board of the property owners' association is void.

11-26 (b) If a board is presented with written, documented  
 11-27 evidence from a database or other record maintained by a  
 11-28 governmental law enforcement authority that a board member has been  
 11-29 convicted of a felony or crime involving moral turpitude, the board  
 11-30 member is immediately ineligible to serve on the board of the  
 11-31 property owners' association, automatically considered removed  
 11-32 from the board, and prohibited from future service on the board.

11-33 (c) A declaration may provide for a developer control period  
 11-34 during which a developer or a person designated by the developer may  
 11-35 appoint and remove members of the property owners' association  
 11-36 board and officers of the association.

11-37 Sec. 209.00592. VOTING; QUORUM. (a) The voting rights of  
 11-38 an owner may be cast or given:

11-39 (1) in person or by proxy at a meeting of the property  
 11-40 owners' association;

11-41 (2) by absentee ballot in accordance with this  
 11-42 section;

11-43 (3) by electronic ballot in accordance with this  
 11-44 section; or

11-45 (4) by any method of representative or delegated  
 11-46 voting provided by a dedicatory instrument.

11-47 (b) An absentee or electronic ballot:

11-48 (1) may be counted as an owner present and voting for  
 11-49 the purpose of establishing a quorum only for items appearing on the  
 11-50 ballot;

11-51 (2) may not be counted, even if properly delivered, if  
 11-52 the owner attends any meeting to vote in person, so that any vote  
 11-53 cast at a meeting by a property owner supersedes any vote submitted  
 11-54 by absentee or electronic ballot previously submitted for that  
 11-55 proposal; and

11-56 (3) may not be counted on the final vote of a proposal  
 11-57 if the motion was amended at the meeting to be different from the  
 11-58 exact language on the absentee or electronic ballot.

11-59 (c) A solicitation for votes by absentee ballot must  
 11-60 include:

11-61 (1) an absentee ballot that contains each proposed  
 11-62 action and provides an opportunity to vote for or against each  
 11-63 proposed action;

11-64 (2) instructions for delivery of the completed  
 11-65 absentee ballot, including the delivery location; and

11-66 (3) the following language: "By casting your vote via  
 11-67 absentee ballot you will forgo the opportunity to consider and vote  
 11-68 on any action from the floor on these proposals, if a meeting is  
 11-69 held. This means that if there are amendments to these proposals

12-1 your votes will not be counted on the final vote on these measures.  
 12-2 If you desire to retain this ability, please attend any meeting in  
 12-3 person. You may submit an absentee ballot and later choose to  
 12-4 attend any meeting in person, in which case any in-person vote will  
 12-5 prevail."

12-6 (d) For the purposes of this section, "electronic ballot"  
 12-7 means a ballot:

- 12-8 (1) given by:
  - 12-9 (A) e-mail;
  - 12-10 (B) facsimile; or
  - 12-11 (C) posting on an Internet website;
- 12-12 (2) for which the identity of the property owner  
 12-13 submitting the ballot can be confirmed; and
- 12-14 (3) for which the property owner may receive a receipt  
 12-15 of the electronic transmission and receipt of the owner's ballot.

12-16 (e) If an electronic ballot is posted on an Internet  
 12-17 website, a notice of the posting shall be sent to each owner that  
 12-18 contains instructions on obtaining access to the posting on the  
 12-19 website.

12-20 (f) This section supersedes any contrary provision in a  
 12-21 dedicatory instrument.

12-22 (g) This section does not apply to a property owners'  
 12-23 association that is subject to Chapter 552, Government Code, by  
 12-24 application of Section 552.0036, Government Code.

12-25 SECTION 14. Subsection (b), Section 209.006, Property Code,  
 12-26 is amended to read as follows:

12-27 (b) The notice must:  
 12-28 (1) describe the violation or property damage that is  
 12-29 the basis for the suspension action, charge, or fine and state any  
 12-30 amount due the association from the owner; and

12-31 (2) inform the owner that the owner:  
 12-32 (A) is entitled to a reasonable period to cure  
 12-33 the violation and avoid the fine or suspension unless the owner was  
 12-34 given notice and a reasonable opportunity to cure a similar  
 12-35 violation within the preceding six months; and

12-36 (B) may request a hearing under Section 209.007  
 12-37 on or before the 30th day after the date notice was delivered to the  
 12-38 owner [~~receives the notice~~].

12-39 SECTION 15. Chapter 209, Property Code, is amended by  
 12-40 adding Sections 209.0061, 209.0062, 209.0063, and 209.0064 to read  
 12-41 as follows:

12-42 Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed  
 12-43 by the property owners' association must be reasonable in the  
 12-44 context of the nature and frequency of the violation and the effect  
 12-45 of the violation on the subdivision as a whole. If the association  
 12-46 allows fines for a continuing violation to accumulate against a lot  
 12-47 or an owner, the association must establish a reasonable maximum  
 12-48 fine amount for a continuing violation at which point the total fine  
 12-49 amount is capped.

12-50 (b) If a lot occupant other than the owner violates a  
 12-51 provision of the dedicatory instrument, the property owners'  
 12-52 association, in addition to exercising any of the association's  
 12-53 powers against the owner, may assess a fine directly against the  
 12-54 nonowner occupant in the same manner as provided for an owner but  
 12-55 may not require payment from both the owner and a nonowner occupant  
 12-56 for the same violation.

12-57 (c) If the property owners' association assesses a fine  
 12-58 against a nonowner occupant under this section, the notice  
 12-59 provisions of Section 209.006 and the hearing provisions of Section  
 12-60 209.007 apply to the nonowner occupant in the same manner as those  
 12-61 provisions apply to an owner.

12-62 Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN  
 12-63 ASSESSMENTS. (a) A property owners' association composed of more  
 12-64 than 14 lots shall adopt reasonable guidelines to establish an  
 12-65 alternative payment schedule by which an owner may make partial  
 12-66 payments to the property owners' association for delinquent regular  
 12-67 or special assessments or any other amount owed to the association  
 12-68 without accruing additional monetary penalties. For purposes of  
 12-69 this section, monetary penalties do not include reasonable costs

13-1 associated with administering the payment plan or interest.  
 13-2 (b) The minimum term for a payment plan offered by a  
 13-3 property owners' association is three months.  
 13-4 (c) A property owners' association is not required to allow  
 13-5 a payment plan for any amount that extends more than 12 months from  
 13-6 the date of the owner's request for a payment plan or to enter into a  
 13-7 payment plan with an owner who failed to honor the terms of a  
 13-8 previous payment plan during the two years following the owner's  
 13-9 default under the previous payment plan.  
 13-10 (d) A property owners' association shall file the  
 13-11 association's guidelines under this section in the real property  
 13-12 records of each county in which the subdivision is located.  
 13-13 (e) A property owners' association's failure to file as  
 13-14 required by this section the association's guidelines in the real  
 13-15 property records of each county in which the subdivision is located  
 13-16 does not prohibit a property owner from receiving an alternative  
 13-17 payment schedule by which the owner may make partial payments to the  
 13-18 property owners' association for delinquent regular or special  
 13-19 assessments or any other amount owed to the association without  
 13-20 accruing additional monetary penalties, as defined by Subsection  
 13-21 (a).  
 13-22 Sec. 209.0063. PRIORITY OF PAYMENTS. (a) Except as  
 13-23 provided by Subsection (b) or otherwise provided in writing by the  
 13-24 property owner at the time payment is made, a payment received by a  
 13-25 property owners' association from the owner shall be applied to the  
 13-26 owner's debt in the following order of priority:  
 13-27 (1) any delinquent assessment;  
 13-28 (2) any current assessment;  
 13-29 (3) any attorney's fees or third party collection  
 13-30 costs incurred by the association associated solely with  
 13-31 assessments or any other charge that could provide the basis for  
 13-32 foreclosure;  
 13-33 (4) any attorney's fees incurred by the association  
 13-34 that are not subject to Subdivision (3);  
 13-35 (5) any fines assessed by the association; and  
 13-36 (6) any other amount owed to the association.  
 13-37 (b) If, at the time the property owners' association  
 13-38 receives a payment from a property owner, the owner is in default  
 13-39 under a payment plan entered into with the association:  
 13-40 (1) the association is not required to apply the  
 13-41 payment in the order of priority specified by Subsection (a); and  
 13-42 (2) in applying the payment, a fine assessed by the  
 13-43 association may not be given priority over any other amount owed to  
 13-44 the association.  
 13-45 Sec. 209.0064. THIRD PARTY COLLECTIONS. Before a property  
 13-46 owners' association turns a property owner's account information  
 13-47 over to a third party for collection of delinquent amounts owed to  
 13-48 the association, the association must provide a notice to the owner  
 13-49 by certified mail, return receipt requested, that:  
 13-50 (1) specifies each delinquent amount and the total  
 13-51 amount of the payment required to make the account current;  
 13-52 (2) describes the options the owner has to avoid  
 13-53 having the account turned over to a third party for collection,  
 13-54 including information regarding the availability of a payment plan  
 13-55 through the association; and  
 13-56 (3) provides a period of at least 30 days for the owner  
 13-57 to cure the delinquency before further action is taken by the  
 13-58 association.  
 13-59 SECTION 16. Chapter 209, Property Code, is amended by  
 13-60 adding Sections 209.0091, 209.0092, and 209.0093 to read as  
 13-61 follows:  
 13-62 Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except  
 13-63 as provided by Subsection (c), a property owners' association may  
 13-64 not foreclose a property owners' association assessment lien unless  
 13-65 the association first obtains a court order in an application for  
 13-66 expedited foreclosure under the rules adopted by the supreme court  
 13-67 under Subsection (b). A property owners' association may use the  
 13-68 procedure described by this subsection to foreclose any lien  
 13-69 described by the association's dedicatory instruments.

14-1           (b) The supreme court, as an exercise of the court's  
 14-2 authority under Section 74.024, Government Code, shall adopt rules  
 14-3 establishing expedited foreclosure proceedings for use by a  
 14-4 property owners' association in foreclosing an assessment lien of  
 14-5 the association. The rules adopted under this subsection must be  
 14-6 substantially similar to the rules adopted by the supreme court  
 14-7 under Section 50(r), Article XVI, Texas Constitution.

14-8           (c) Expedited foreclosure is not required under this  
 14-9 section if the owner of the property that is subject to foreclosure  
 14-10 agrees in writing at the time the foreclosure is sought to waive  
 14-11 expedited foreclosure under this section. A waiver under this  
 14-12 subsection may not be required as a condition of the transfer of  
 14-13 title to real property.

14-14           Sec. 209.0092. REMOVAL OR ADOPTION OF FORECLOSURE  
 14-15 AUTHORITY. A provision granting a right to foreclose a lien on real  
 14-16 property for unpaid amounts due to a property owners' association  
 14-17 may be removed from a dedicatory instrument or adopted in a  
 14-18 dedicatory instrument by a vote of at least 67 percent of the total  
 14-19 votes allocated to property owners in the property owners'  
 14-20 association. Owners holding at least 10 percent of all voting  
 14-21 interests in the property owners' association may petition the  
 14-22 association and require a special meeting to be called for the  
 14-23 purposes of taking a vote for the purposes of this section.

14-24           Sec. 209.0093. ASSESSMENT LIEN FILING. A lien, lien  
 14-25 affidavit, or other instrument evidencing the nonpayment of  
 14-26 assessments or other charges owed to a property owners' association  
 14-27 and filed in the official public records of a county is a legal  
 14-28 instrument affecting title to real property.

14-29           SECTION 17. Subsection (a), Section 209.010, Property Code,  
 14-30 is amended to read as follows:

14-31           (a) A property owners' association that conducts a  
 14-32 foreclosure sale of an owner's lot must send to the lot owner and to  
 14-33 each lienholder of record, not later than the 30th day after the  
 14-34 date of the foreclosure sale:

14-35           (1) [✓] a written notice stating the date and time the  
 14-36 sale occurred and informing the lot owner and each lienholder of  
 14-37 record of the right of the lot owner and lienholder to redeem the  
 14-38 property under Section 209.011; and

14-39           (2) a copy of Section 209.011.

14-40           SECTION 18. Chapter 209, Property Code, is amended by  
 14-41 adding Section 209.014 to read as follows:

14-42           Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO  
 14-43 CALL REGULAR MEETING. (a) Notwithstanding any provision in a  
 14-44 dedicatory instrument, the board of the property owners'  
 14-45 association shall call a special election to elect a new board not  
 14-46 later than the 30th day after the date on which the board fails to  
 14-47 call a regular meeting of the members of the association as required  
 14-48 by a dedicatory instrument.

14-49           (b) If the board fails to call a special election as  
 14-50 required under Subsection (a), an owner may demand that the  
 14-51 election be held within a reasonable time. The demand must be made  
 14-52 in writing and sent to each board member by certified mail, return  
 14-53 receipt requested.

14-54           (c) If the board fails to call the special election before  
 14-55 the 61st day after the date the owner mailed the demand under  
 14-56 Subsection (b), an owner may compel the property owners'  
 14-57 association to hold the special election by initiating legal action  
 14-58 against the association. Each owner has a justiciable interest  
 14-59 sufficient to initiate and prosecute a legal action described by  
 14-60 this subsection.

14-61           SECTION 19. Subsection (a), Section 211.002, Property Code,  
 14-62 is amended to read as follows:

14-63           (a) This chapter applies only to a residential real estate  
 14-64 subdivision or any unit or parcel of a subdivision to which another  
 14-65 chapter in this title that provides a procedure under which a  
 14-66 subdivision's restrictions may for general purposes be amended does  
 14-67 not apply [located in whole or in part within an unincorporated area  
 14-68 of a county if the county has a population of less than 65,000].

14-69           SECTION 20. (a) Subsection (a), Section 5.006 and

15-1 Subsection (c), Section 202.004, Property Code, as amended by this  
15-2 Act, apply only to an action filed on or after the effective date of  
15-3 this Act. An action filed before the effective date of this Act is  
15-4 governed by the law in effect immediately before the effective date  
15-5 of this Act, and that law is continued in effect for that purpose.

15-6 (b) Section 5.012, Property Code, as amended by this Act,  
15-7 applies only to a sale of property that occurs on or after the  
15-8 effective date of this Act. For the purposes of this subsection, a  
15-9 sale of property occurs before the effective date of this Act if the  
15-10 executory contract binding the purchaser to purchase the property  
15-11 is executed before that date. A sale of property that occurs before  
15-12 the effective date of this Act is governed by the law in effect  
15-13 immediately before that date, and that law is continued in effect  
15-14 for that purpose.

15-15 (c) Section 202.006, Property Code, as amended by this Act,  
15-16 and Sections 202.011, 202.012, and 209.0059 and Subsection (a),  
15-17 Section 209.00592, Property Code, as added by this Act, apply to a  
15-18 provision in a dedicatory instrument or a restrictive covenant  
15-19 enacted before, on, or after the effective date of this Act, except  
15-20 that any action taken before the effective date of this Act based on  
15-21 an unfiled dedicatory instrument is not invalidated by Section  
15-22 202.006, Property Code, as amended by this Act.

15-23 (d) Sections 207.003 and 209.005, Property Code, as amended  
15-24 by this Act, apply only to a request for information received by a  
15-25 property owners' association on or after the effective date of this  
15-26 Act. A request for information received by a property owners'  
15-27 association before the effective date of this Act is governed by the  
15-28 law in effect immediately before the effective date of this Act, and  
15-29 that law is continued in effect for that purpose.

15-30 (e) Subsection (m), Section 209.005, Property Code, as  
15-31 added by this Act, applies only with respect to books and records  
15-32 generated on or after the effective date of this Act. Books and  
15-33 records generated before the effective date of this Act are  
15-34 governed by the law in effect immediately before the effective date  
15-35 of this Act, and that law is continued in effect for that purpose.

15-36 (f) Section 209.006, Property Code, as amended by this Act,  
15-37 applies only to an enforcement action initiated by a property  
15-38 owners' association on or after the effective date of this Act. An  
15-39 enforcement action initiated before the effective date of this Act  
15-40 is governed by the law in effect immediately before the effective  
15-41 date of this Act, and that law is continued in effect for that  
15-42 purpose.

15-43 (g) Section 209.0062, Property Code, as added by this Act,  
15-44 applies only to an assessment or other debt that becomes due on or  
15-45 after the effective date of this Act. An assessment or other debt  
15-46 that becomes due before the effective date of this Act is governed  
15-47 by the law in effect immediately before the effective date of this  
15-48 Act, and that law is continued in effect for that purpose.

15-49 (h) Section 209.0063, Property Code, as added by this Act,  
15-50 applies only to a payment received by a property owners'  
15-51 association on or after the effective date of this Act. A payment  
15-52 received by a property owners' association before the effective  
15-53 date of this Act is governed by the law in effect immediately before  
15-54 the effective date of this Act, and that law is continued in effect  
15-55 for that purpose.

15-56 (i) Section 209.0091, Property Code, as added by this Act,  
15-57 and Subsection (a), Section 209.010, Property Code, as amended by  
15-58 this Act, apply only to a foreclosure sale conducted on or after the  
15-59 effective date of this Act. A foreclosure sale conducted before the  
15-60 effective date of this Act is governed by the law in effect  
15-61 immediately before the effective date of this Act, and that law is  
15-62 continued in effect for that purpose.

15-63 (j) Section 209.0093, Property Code, as added by this Act,  
15-64 applies only to an instrument filed on or after January 1, 2012. An  
15-65 instrument filed before January 1, 2012, is governed by the law in  
15-66 effect on the date the instrument was filed, and that law is  
15-67 continued in effect for that purpose.

15-68 (k) Section 209.014, Property Code, as added by this Act,  
15-69 applies to a property owners' association created before, on, or

16-1 after the effective date of this Act.

16-2 SECTION 21. Not later than January 1, 2012, each property  
16-3 owners' association shall present for recording with the county  
16-4 clerk as prescribed by Section 202.006, Property Code, as amended  
16-5 by this Act, each dedicatory instrument governing the association  
16-6 that has not been previously recorded in the real property records  
16-7 of the county.

16-8 SECTION 22. Not later than January 1, 2012, the Supreme  
16-9 Court of Texas shall adopt rules of civil procedure under Section  
16-10 209.0091, Property Code, as added by this Act.

16-11 SECTION 23. (a) Except as provided by Subsection (b) of  
16-12 this section, this Act takes effect January 1, 2012.

16-13 (b) Subsection (b), Section 209.0091, Property Code, as  
16-14 added by this Act, takes effect September 1, 2011.

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