

By: White

H.B. No. 818

Substitute the following for H.B. No. 818:

By: Orr

C.S.H.B. No. 818

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain voting procedures for certain property owners'  
3 associations.

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

5 SECTION 1. Section 209.0058, Property Code, as added by  
6 Chapter 1026 (H.B. 2761), Acts of the 82nd Legislature, Regular  
7 Session, 2011, is amended by amending Subsections (a) and (b) and  
8 adding Subsection (d) to read as follows:

9 (a) Except as provided by Subsection (d), any ~~[Any]~~ vote  
10 cast in an election or vote by a member of a property owners'  
11 association must be in writing and signed by the member.

12 (b) Electronic votes cast under Section 209.00592 shall be  
13 considered ~~[constitute]~~ written and signed ballots if the identity  
14 of the property owner submitting the ballot can be confirmed.

15 (d) The property owners' association board may elect to  
16 allow each vote cast in an election or each vote cast by a member of  
17 the property owners' association to be by secret ballot.

18 SECTION 2. (a) This section takes effect only if the Act of  
19 the 83rd Legislature, Regular Session, 2013, relating to  
20 nonsubstantive additions to and corrections in enacted codes does  
21 not become law.

22 (b) Section 209.0058, Property Code, as added by Chapter  
23 1217 (S.B. 472), Acts of the 82nd Legislature, Regular Session,  
24 2011, is amended by amending Subsections (a) and (b) and adding

1 Subsection (d) to read as follows:

2 (a) Except as provided by Subsection (d), any [~~Any~~] vote  
3 cast in an election or vote by a member of a property owners'  
4 association must be in writing and signed by the member.

5 (b) Electronic votes cast under Section 209.00593 shall be  
6 considered [~~constitute~~] written and signed ballots if the identity  
7 of the property owner submitting the ballot can be confirmed.

8 (d) The property owners' association board may elect to  
9 allow each vote cast in an election or each vote cast by a member of  
10 the property owners' association to be by secret ballot.

11 SECTION 3. Section 209.00592, Property Code, as added by  
12 Chapter 1026 (H.B. 2761), Acts of the 82nd Legislature, Regular  
13 Session, 2011, is amended by amending Subsections (a) and (d) and  
14 adding Subsection (b-1) to read as follows:

15 (a) Subject to Subsection (b-1), the [~~The~~] voting rights of  
16 an owner may be cast or given:

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

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

21 (3) by electronic ballot in accordance with this  
22 section; or

23 (4) by any method of representative or delegated  
24 voting provided by a dedicatory instrument.

25 (b-1) If a property owners' association board elects to  
26 allow voting by secret ballot under Section 209.0058(d), the  
27 property owners' association must provide a practical and effective

1 means for each vote cast in an election or each vote cast by a member  
2 of the property owners' association to be by secret ballot.

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

5 (1) given by:

6 (A) e-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, unless the board elects to  
11 allow voting by secret ballot under Section 209.0058(d); and

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

14 SECTION 4. (a) This section takes effect only if the Act of  
15 the 83rd Legislature, Regular Session, 2013, relating to  
16 nonsubstantive additions to and corrections in enacted codes does  
17 not become law.

18 (b) Section 209.00593, Property Code, as added by Chapter  
19 1217 (S.B. 472), Acts of the 82nd Legislature, Regular Session,  
20 2011, is amended by amending Subsections (a) and (d) and adding  
21 Subsection (b-1) to read as follows:

22 (a) Subject to Subsection (b-1), the ~~The~~ voting rights of  
23 an owner may be cast or given:

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

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

1           (3) by electronic ballot in accordance with this  
2 section; or

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

5           (b-1) If a property owners' association board elects to  
6 allow voting by secret ballot under Section 209.0058(d), the  
7 property owners' association must provide a practical and effective  
8 means for each vote cast in an election or each vote cast by a member  
9 of the property owners' association to be by secret ballot.

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

12           (1) given by:

13                   (A) e-mail;

14                   (B) facsimile; or

15                   (C) posting on an Internet website;

16           (2) for which the identity of the property owner  
17 submitting the ballot can be confirmed, unless the board elects to  
18 allow voting by secret ballot under Section 209.0058(d); and

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

21           SECTION 5. To the extent of any conflict, this Act prevails  
22 over another Act of the 83rd Legislature, Regular Session, 2013,  
23 relating to nonsubstantive additions to and corrections in enacted  
24 codes.

25           SECTION 6. This Act takes effect January 1, 2014.