

By: Allen

H.B. No. 1933

A BILL TO BE ENTITLED

AN ACT

relating to condominium association records and meetings.

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

SECTION 1. Section 81.209(b), Property Code, is amended to read as follows:

(b) Notwithstanding a provision in a declaration, master deed, or master lease, the books and records of a condominium regime, including [The] accounts and supporting vouchers and any other financial records, [of a condominium regime] shall be made available to the apartment owners in accordance with Section 81.2091 [for examination on working days at convenient, established, and publicly announced hours].

SECTION 2. Subchapter C, Chapter 81, Property Code, is amended by adding Sections 81.2091 and 81.2092 to read as follows:

Sec. 81.2091. AVAILABILITY AND RETENTION OF RECORDS. (a) This section applies to all condominium regimes and controls over other law not specifically applicable to a condominium regime.

(b) A condominium regime's council of owners shall make the books and records of the council, including financial records, open to and reasonably available for examination by an apartment owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the council copies of information contained in the books and

1 records.

2 (c) Except as provided by this subsection, an attorney's  
3 files and records relating to the council of owners are not records  
4 of the council and are not subject to inspection by an apartment  
5 owner or production in a legal proceeding. If a document in an  
6 attorney's files and records relating to the council would be  
7 responsive to a legally authorized request to inspect or copy  
8 council documents, the document shall be produced by using the copy  
9 from the attorney's files and records if the council has not  
10 maintained a separate copy of the document. This subsection does  
11 not require production of a document that constitutes attorney work  
12 product or that is privileged as an attorney-client communication.

13 (d) An apartment owner or the owner's authorized  
14 representative described by Subsection (b) must submit a written  
15 request for access or information under Subsection (b) by certified  
16 mail, with sufficient detail describing the council of owners'  
17 books and records requested, to the mailing address of the council  
18 or the council's authorized representative. The request must  
19 contain an election either to inspect the books and records before  
20 obtaining copies or to have the council forward copies of the  
21 requested books and records and:

22 (1) if an inspection is requested, the council, on or  
23 before the 10th business day after the date the council receives the  
24 request, shall send written notice of dates during normal business  
25 hours that the owner may inspect the requested books and records to  
26 the extent those books and records are in the possession, custody,  
27 or control of the council; or

1           (2) if copies of identified books and records are  
2 requested, the council shall, to the extent those books and records  
3 are in the possession, custody, or control of the council, produce  
4 the requested books and records for the requesting party on or  
5 before the 10th business day after the date the council receives the  
6 request, except as otherwise provided by this section.

7           (e) If the council of owners is unable to produce the books  
8 or records requested under Subsection (d) on or before the 10th  
9 business day after the date the council receives the request, the  
10 council must provide to the requestor written notice that:

11           (1) informs the requestor that the council is unable  
12 to produce the information on or before the 10th business day after  
13 the date the council received the request; and

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

18           (f) If an inspection is requested or required, the  
19 inspection shall take place at a mutually agreed on time during  
20 normal business hours, and the requesting party shall identify the  
21 books and records for the council of owners to copy and forward to  
22 the requesting party.

23           (g) A council of owners may produce books and records  
24 requested under this section in hard copy, electronic, or other  
25 format reasonably available to the council.

26           (h) A council of owners must adopt a records production and  
27 copying policy that prescribes the costs the council will charge

1 for the compilation, production, and reproduction of information  
2 requested under this section. The prescribed charges may include  
3 all reasonable costs of materials, labor, and overhead but may not  
4 exceed costs that would be applicable for an item under 1 T.A.C.  
5 Section 70.3. The policy required by this subsection must be  
6 recorded as a dedicatory instrument in accordance with Section  
7 202.006. A council of owners may not charge an apartment owner for  
8 the compilation, production, or reproduction of information  
9 requested under this section unless the policy prescribing those  
10 costs has been recorded as required by this subsection. An owner is  
11 responsible for costs related to the compilation, production, and  
12 reproduction of the requested information in the amounts prescribed  
13 by the policy adopted under this subsection. The council may  
14 require advance payment of the estimated costs of compilation,  
15 production, and reproduction of the requested information. If the  
16 estimated costs are lesser or greater than the actual costs, the  
17 council shall submit a final invoice to the owner on or before the  
18 30th business day after the date the information is delivered. If  
19 the final invoice includes additional amounts due from the owner,  
20 the additional amounts, if not reimbursed to the council before the  
21 30th business day after the date the invoice is sent to the owner,  
22 may be added to the owner's account as an assessment. If the  
23 estimated costs exceeded the final invoice amount, the owner is  
24 entitled to a refund, and the refund shall be issued to the owner  
25 not later than the 30th business day after the date the invoice is  
26 sent to the owner.

27 (i) A council of owners must estimate costs under this

1 section using amounts prescribed by the policy adopted under  
2 Subsection (h).

3 (j) Except as provided by Subsection (k) and to the extent  
4 the information is provided in the meeting minutes, the council of  
5 owners is not required to release or allow inspection of any books  
6 or records that identify violation history of an individual  
7 apartment owner, an owner's personal financial information,  
8 including records of payment or nonpayment of amounts due the  
9 council, an owner's contact information, other than the owner's  
10 address, or information related to an employee of the council,  
11 including personnel files. Information may be released in an  
12 aggregate or summary manner that would not identify an individual  
13 property owner.

14 (k) The books and records described by Subsection (j) shall  
15 be released or made available for inspection if:

16 (1) the express written approval of the apartment  
17 owner whose records are the subject of the request for inspection is  
18 provided to the council of owners; or

19 (2) a court orders the release of the books and records  
20 or orders that the books and records be made available for  
21 inspection.

22 (l) A council of owners of a condominium regime composed of  
23 more than 14 apartments shall adopt and comply with a document  
24 retention policy that includes, at a minimum, the following  
25 requirements:

26 (1) certificates of formation, bylaws, restrictive  
27 covenants, including a declaration, master deed, or master lease,

1 and all amendments to those instruments shall be retained  
2 permanently;

3 (2) financial books and records shall be retained for  
4 seven years;

5 (3) account records of current apartment owners shall  
6 be retained for five years;

7 (4) contracts with a term of one year or more shall be  
8 retained for four years after the expiration of the contract term;

9 (5) minutes of meetings of the council of owners or the  
10 council's board of administration shall be retained for seven  
11 years; and

12 (6) tax returns and audit records shall be retained  
13 for seven years.

14 (m) A member of a council of owners who is denied access to  
15 or copies of council books or records to which the member is  
16 entitled under this section may file a petition with the justice of  
17 the peace of a justice precinct in which all or part of the property  
18 that is included in the condominium regime is located requesting  
19 relief in accordance with this subsection. If the justice of the  
20 peace finds that the member is entitled to access to or copies of  
21 the records, the justice of the peace may grant one or more of the  
22 following remedies:

23 (1) a judgment ordering the council to release or  
24 allow access to the books or records;

25 (2) a judgment against the council for court costs and  
26 attorney's fees incurred in connection with seeking a remedy under  
27 this section; or

1           (3) a judgment authorizing the apartment owner or the  
2 owner's assignee to deduct the amounts awarded under Subdivision  
3 (2) from any future regular or special assessments payable to the  
4 council.

5           (n) If the council of owners prevails in an action under  
6 Subsection (m), the council is entitled to a judgment for court  
7 costs and attorney's fees incurred by the council in connection  
8 with the action.

9           (o) On or before the 10th business day before the date a  
10 person brings an action against a council of owners under this  
11 section, the person must send written notice to the council of the  
12 person's intent to bring the action. The notice must:

13           (1) be sent certified mail, return receipt requested,  
14 or delivered by the United States Postal Service with signature  
15 confirmation service to the mailing address of the council or the  
16 council's authorized representative; and

17           (2) describe with sufficient detail the books and  
18 records being requested.

19           (p) A council of owners may not foreclose an assessment lien  
20 if the debt securing the lien consists solely of amounts added to  
21 the apartment owner's account as an assessment under Subsection  
22 (h).

23           (q) For the purposes of this section, "business day" means a  
24 day other than Saturday, Sunday, or a state or federal holiday.

25           Sec. 81.2092. MEETINGS. (a) In this section:

26           (1) "Board" means the board of directors or the body,  
27 regardless of name, designated to act on behalf of the council of

1 owners.

2 (2) "Board meeting":

3 (A) means a deliberation between a quorum of the  
4 voting board of the council of owners, or between a quorum of the  
5 voting board and another person, during which council business is  
6 considered and the board takes formal action; and

7 (B) does not include the gathering of a quorum of  
8 the board at a social function unrelated to the business of the  
9 council or the attendance by a quorum of the board at a regional,  
10 state, or national convention, ceremonial event, or press  
11 conference, if formal action is not taken and any discussion of  
12 council business is incidental to the social function, convention,  
13 ceremonial event, or press conference.

14 (b) Meetings of the council of owners must be held at least  
15 once each year. Unless the declaration provides otherwise, special  
16 meetings of the council may be called by the president, a majority  
17 of the board, or apartment owners having at least 20 percent of the  
18 votes in the council.

19 (c) Meetings of the council and regular and special board  
20 meetings must be open to apartment owners, subject to the right of  
21 the board to adjourn a meeting of the board and reconvene in closed  
22 executive session to consider actions involving personnel, pending  
23 or threatened litigation, contract negotiations, enforcement  
24 actions, confidential communications with the council's attorney,  
25 matters involving the invasion of privacy of individual apartment  
26 owners, or matters that are to remain confidential by request of the  
27 affected parties and agreement of the board. Following an



1 executive session, any decision made in the executive session must  
2 be summarized orally and placed in the minutes, in general terms,  
3 without breaching the privacy of individual owners, violating any  
4 privilege, or disclosing information that was to remain  
5 confidential at the request of the affected parties. The oral  
6 summary must include a general explanation of expenditures approved  
7 in executive session.

8 (d) Except for a meeting held by electronic or telephonic  
9 means under Subsection (i), a board meeting must be held in a county  
10 in which all or part of the condominium is located or in a county  
11 adjacent to that county.

12 (e) The board shall keep a record of each regular or special  
13 board meeting in the form of written minutes of the meeting. The  
14 board shall make meeting records, including approved minutes,  
15 available to a member of the council of owners for inspection and  
16 copying on the member's written request to the council's managing  
17 agent at the address appearing on the most recently filed  
18 management certificate or, if there is not a managing agent, to the  
19 board.

20 (f) Members of the council of owners shall be given notice  
21 of the date, hour, place, and general subject of a regular or  
22 special board meeting, including a general description of any  
23 matter to be brought up for deliberation in executive session. The  
24 notice shall be:

25 (1) mailed to each apartment owner not later than the  
26 10th day or earlier than the 60th day before the date of the  
27 meeting; or

1           (2) provided at least 72 hours before the start of the  
2 meeting by:

3           (A) posting the notice in a conspicuous manner  
4 reasonably designed to provide notice to council members:

5           (i) in a place located on the condominium  
6 regime's common property or, with the property owner's consent, on  
7 other conspicuously located privately owned property within the  
8 condominium regime; or

9           (ii) on any Internet website maintained by  
10 the council or other Internet media; and

11           (B) sending the notice by e-mail to each owner  
12 who has registered an e-mail address with the council.

13           (g) It is an owner's duty to keep an updated e-mail address  
14 registered with the council under Subsection (f)(2)(B).

15           (h) If the board recesses a regular or special board meeting  
16 to continue the following regular business day, the board is not  
17 required to post notice of the continued meeting if the recess is  
18 taken in good faith and not to circumvent this section. If a  
19 regular or special board meeting is continued to the following  
20 regular business day, and on that following day the board continues  
21 the meeting to another day, the board shall give notice of the  
22 continuation in at least one manner prescribed by Subsection  
23 (f)(2)(A) within two hours after adjourning the meeting being  
24 continued.

25           (i) A board may meet by any method of communication,  
26 including electronic and telephonic, without prior notice to  
27 apartment owners under Subsection (f), if each board member may

1 hear and be heard by every other board member, or the board may take  
2 action by unanimous written consent to consider routine and  
3 administrative matters or a reasonably unforeseen emergency or  
4 urgent necessity that requires immediate board action. Any action  
5 taken without notice to owners under Subsection (f) must be  
6 summarized orally, including an explanation of any known actual or  
7 estimated expenditures approved at the meeting, and documented in  
8 the minutes of the next regular or special board meeting. The board  
9 may not, without prior notice to owners under Subsection (f),  
10 consider or vote on:

11 (1) fines;  
12 (2) damage assessments;  
13 (3) initiation of foreclosure actions;  
14 (4) initiation of enforcement actions, excluding  
15 temporary restraining orders or violations involving a threat to  
16 health or safety;

17 (5) increases in assessments;  
18 (6) levying of special assessments;  
19 (7) appeals from a denial of architectural control  
20 approval; or

21 (8) a suspension of a right of a particular council  
22 member before the member has an opportunity to attend a board  
23 meeting to present the member's position, including any defense, on  
24 the issue.

25 (j) Notice of a meeting of the council of owners must be  
26 given as provided by the bylaws, or, if the bylaws do not provide  
27 for notice, notice must be given to each apartment owner in the same

1 manner in which notice of a board meeting is given to members under  
2 this section.

3 SECTION 3. Section 82.108, Property Code, is amended to  
4 read as follows:

5 Sec. 82.108. MEETINGS. (a) In this section:

6 (1) "Board meeting":

7 (A) means a deliberation between a quorum of the  
8 voting board of the association, or between a quorum of the voting  
9 board and another person, during which association business is  
10 considered and the board takes formal action; and

11 (B) does not include the gathering of a quorum of  
12 the board at a social function unrelated to the business of the  
13 association or the attendance by a quorum of the board at a  
14 regional, state, or national convention, ceremonial event, or press  
15 conference, if formal action is not taken and any discussion of  
16 association business is incidental to the social function,  
17 convention, ceremonial event, or press conference.

18 (2) "Development period" means a period of declarant  
19 control described by Section 82.103(c).

20 (b) Meetings of the association must be held at least once  
21 each year. Unless the declaration provides otherwise, special  
22 meetings of the association may be called by the president, a  
23 majority of the board, or unit owners having at least 20 percent of  
24 the votes in the association.

25 (c) [~~(b)~~] Meetings of the association and regular and  
26 special board meetings must be open to unit owners, subject to the  
27 right of the board to adjourn a meeting of the board and reconvene

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

14 (d) Except for a meeting held by electronic or telephonic  
15 means under Subsection (i), a board meeting must be held in a county  
16 in which all or part of the condominium is located or in a county  
17 adjacent to that county.

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

25 (f) Members shall be given notice of the date, hour, place,  
26 and general subject of a regular or special board meeting,  
27 including a general description of any matter to be brought up for

1 deliberation in executive session. The notice shall be:

2 (1) mailed to each unit owner not later than the 10th  
3 day or earlier than the 60th day before the date of the meeting; or

4 (2) provided at least 72 hours before the start of the  
5 meeting by:

6 (A) posting the notice in a conspicuous manner  
7 reasonably designed to provide notice to association members:

8 (i) in a place located on the association's  
9 common property or, with the property owner's consent, on other  
10 conspicuously located privately owned property within the  
11 condominium regime; or

12 (ii) on any Internet website maintained by  
13 the association or other Internet media; and

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

16 (g) It is an owner's duty to keep an updated e-mail address  
17 registered with the association under Subsection (f)(2)(B).

18 (h) If the board recesses a regular or special board meeting  
19 to continue the following regular business day, the board is not  
20 required to post notice of the continued meeting if the recess is  
21 taken in good faith and not to circumvent this section. If a  
22 regular or special board meeting is continued to the following  
23 regular business day, and on that following day the board continues  
24 the meeting to another day, the board shall give notice of the  
25 continuation in at least one manner prescribed by Subsection  
26 (f)(2)(A) within two hours after adjourning the meeting being  
27 continued.

1            (i) A ~~[The general nature of any business to be considered~~  
2 ~~in executive session must first be announced at the open meeting.~~

3            ~~[(c) Unless the declaration, bylaws, or articles of~~  
4 ~~incorporation of the association provide otherwise:~~

5            ~~[(1) a meeting of the]~~ board may meet ~~[be held]~~ by any  
6 method of communication, including electronic and telephonic,  
7 without prior notice to owners under Subsection (f), if ~~[+~~

8                    ~~[(A) notice of the meeting has been given in~~  
9 ~~accordance with Subsection (e),~~

10                   ~~[(B)]~~ each director may hear and be heard by  
11 every other director, or ~~[+ and~~

12                   ~~[(C) the meeting does not involve voting on a~~  
13 ~~fine, damage assessment, appeal from a denial of architectural~~  
14 ~~control approval, or suspension of a right of a particular~~  
15 ~~association member before the member has an opportunity to attend a~~  
16 ~~board meeting to present the member's position, including any~~  
17 ~~defense, on the issue, and~~

18            ~~[(2)]~~ the board may take action ~~[act]~~ by unanimous  
19 written consent to consider routine and administrative matters or a  
20 reasonably unforeseen emergency or urgent necessity that requires  
21 immediate board action. Any action taken without notice to owners  
22 under Subsection (f) 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 of the next regular or  
25 special board meeting. The board may not ~~[of all the directors],~~  
26 without prior notice to owners under Subsection (f), consider or  
27 vote on ~~[a meeting, if]:~~

- 1           (1) fines;  
2           (2) [~~(A)~~ the board action does not involve voting on  
3 ~~a fine,~~ damage assessments;  
4           (3) initiation of foreclosure actions;  
5           (4) initiation of enforcement actions, excluding  
6 temporary restraining orders or violations involving a threat to  
7 health or safety;  
8           (5) increases in assessments;  
9           (6) levying of special assessments;  
10          (7) appeals [assessment, appeal] from a denial of  
11 architectural control approval; i [~~r~~] or  
12          (8) a suspension of a right of a particular  
13 association member before the member has an opportunity to attend a  
14 board meeting to present the member's position, including any  
15 defense, on the issue [~~r~~ and  
16                   ~~[(B) a record of the board action is filed with~~  
17 ~~the minutes of board meetings]~~.  
18          (j) [~~(d)~~] Notice of a meeting of the association must be  
19 given as provided by the bylaws, or, if the bylaws do not provide  
20 for notice, notice must be given to each unit owner in the same  
21 manner in which notice of a board meeting is given under this  
22 section [~~to members of a nonprofit corporation under Section A,~~  
23 ~~Article 2.11, Texas Non-Profit Corporation Act (Article 1396-2.11,~~  
24 ~~Vernon's Texas Civil Statutes)] .  
25          (k) This section applies to a meeting of an association  
26 board during the development period only if the meeting is  
27 conducted for the purpose of:~~



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

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

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

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

11           ~~[(e) Notice of a meeting of the board must be given as~~  
12 ~~provided by the bylaws, or, if the bylaws do not provide for notice,~~  
13 ~~notice must be given to each board member in the same manner in~~  
14 ~~which notice is given to members of the board of a nonprofit~~  
15 ~~corporation under Section B, Article 2.19, Texas Non-Profit~~  
16 ~~Corporation Act (Article 1396-2.19, Vernon's Texas Civil~~  
17 ~~Statutes).]~~

18           ~~[(f) An association, on the written request of a unit owner,~~  
19 ~~shall inform the unit owner of the time and place of the next~~  
20 ~~regular or special meeting of the board. If the association~~  
21 ~~representative to whom the request is made does not know the time~~  
22 ~~and place of the meeting, the association promptly shall obtain the~~  
23 ~~information and disclose it to the unit owner or inform the unit~~  
24 ~~owner where the information may be obtained.]~~

25           SECTION 4. Section 82.114(b), Property Code, is amended to  
26 read as follows:

27           (b) Notwithstanding a provision in a declaration, the books

1 and records of the association, including [All] financial [~~and~~  
2 ~~other~~] records, [~~of the association~~] shall be made [~~reasonably~~]  
3 available to the unit owners in accordance with Section 82.1141 [~~at~~  
4 ~~its registered office or its principal office in this state for~~  
5 ~~examination by a unit owner and the owner's agents. An attorney's~~  
6 ~~files and records relating to the association are not records of the~~  
7 ~~association and are not subject to inspection by unit owners or~~  
8 ~~production in a legal proceeding~~].

9 SECTION 5. Subchapter C, Chapter 82, Property Code, is  
10 amended by adding Section 82.1141 to read as follows:

11 Sec. 82.1141. AVAILABILITY AND RETENTION OF RECORDS. (a)  
12 This section applies to all condominium unit owners' associations  
13 and controls over other law not specifically applicable to a  
14 condominium unit owners' association.

15 (b) Notwithstanding a provision in a declaration, an  
16 association shall make the books and records of the association,  
17 including financial records, open to and reasonably available for  
18 examination by a unit owner, or a person designated in a writing  
19 signed by the owner as the owner's agent, attorney, or certified  
20 public accountant, in accordance with this section. An owner is  
21 entitled to obtain from the association copies of information  
22 contained in the books and records.

23 (c) Except as provided by this subsection, an attorney's  
24 files and records relating to the association are not records of the  
25 association and are not subject to inspection by a unit owner or  
26 production in a legal proceeding. If a document in an attorney's  
27 files and records relating to the association would be responsive

1 to a legally authorized request to inspect or copy association  
2 documents, the document shall be produced by using the copy from the  
3 attorney's files and records if the association has not maintained  
4 a separate copy of the document. This subsection does not require  
5 production of a document that constitutes attorney work product or  
6 that is privileged as an attorney-client communication.

7 (d) A unit owner or the owner's authorized representative  
8 described by Subsection (b) must submit a written request for  
9 access or information under Subsection (b) by certified mail, with  
10 sufficient detail describing the association's books and records  
11 requested, to the mailing address of the association or authorized  
12 representative as reflected on the most current management  
13 certificate filed under Section 82.116. The request must contain  
14 an election either to inspect the books and records before  
15 obtaining copies or to have the association forward copies of the  
16 requested books and records and:

17 (1) if an inspection is requested, the association, on  
18 or before the 10th business day after the date the association  
19 receives the request, shall send written notice of dates during  
20 normal business hours that the owner may inspect the requested  
21 books and records to the extent those books and records are in the  
22 possession, custody, or control of the association; or

23 (2) if copies of identified books and records are  
24 requested, the association shall, to the extent those books and  
25 records are in the possession, custody, or control of the  
26 association, produce the requested books and records for the  
27 requesting party on or before the 10th business day after the date

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

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

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

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

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

19 (g) An association may produce books and records requested  
20 under this section in hard copy, electronic, or other format  
21 reasonably available to the association.

22 (h) An association board must adopt a records production and  
23 copying policy that prescribes the costs the association will  
24 charge for the compilation, production, and reproduction of  
25 information requested under this section. The prescribed charges  
26 may include all reasonable costs of materials, labor, and overhead  
27 but may not exceed costs that would be applicable for an item under

1 1 T.A.C. Section 70.3. The policy required by this subsection must  
2 be recorded as a dedicatory instrument in accordance with Section  
3 202.006. An association may not charge a unit owner for the  
4 compilation, production, or reproduction of information requested  
5 under this section unless the policy prescribing those costs has  
6 been recorded as required by this subsection. An owner is  
7 responsible for costs related to the compilation, production, and  
8 reproduction of the requested information in the amounts prescribed  
9 by the policy adopted under this subsection. The association may  
10 require advance payment of the estimated costs of compilation,  
11 production, and reproduction of the requested information. If the  
12 estimated costs are lesser or greater than the actual costs, the  
13 association shall submit a final invoice to the owner on or before  
14 the 30th business day after the date the information is delivered.  
15 If the final invoice includes additional amounts due from the  
16 owner, the additional amounts, if not reimbursed to the association  
17 before the 30th business day after the date the invoice is sent to  
18 the owner, may be added to the owner's account as an assessment. If  
19 the estimated costs exceeded the final invoice amount, the owner is  
20 entitled to a refund, and the refund shall be issued to the owner  
21 not later than the 30th business day after the date the invoice is  
22 sent to the owner.

23 (i) An association must estimate costs under this section  
24 using amounts prescribed by the policy adopted under Subsection  
25 (h).

26 (j) Except as provided by Subsection (k) and to the extent  
27 the information is provided in the meeting minutes, the association

1 is not required to release or allow inspection of any books or  
2 records that identify the violation history of an individual unit  
3 owner, an owner's personal financial information, including  
4 records of payment or nonpayment of amounts due the association, an  
5 owner's contact information, other than the owner's address, or  
6 information related to an employee of the association, including  
7 personnel files. Information may be released in an aggregate or  
8 summary manner that would not identify an individual unit owner.

9 (k) The books and records described by Subsection (j) shall  
10 be released or made available for inspection if:

11 (1) the express written approval of the unit owner  
12 whose records are the subject of the request for inspection is  
13 provided to the association; or

14 (2) a court orders the release of the books and records  
15 or orders that the books and records be made available for  
16 inspection.

17 (l) An association composed of more than 14 units shall  
18 adopt and comply with a document retention policy that includes, at  
19 a minimum, the following requirements:

20 (1) certificates of formation, bylaws, restrictive  
21 covenants, and all amendments to the certificates of formation,  
22 bylaws, and covenants shall be retained permanently;

23 (2) financial books and records shall be retained for  
24 seven years;

25 (3) account records of current unit owners shall be  
26 retained for five years;

27 (4) contracts with a term of one year or more shall be

1 retained for four years after the expiration of the contract term;

2 (5) minutes of meetings of the unit owners and the  
3 board shall be retained for seven years; and

4 (6) tax returns and audit records shall be retained  
5 for seven years.

6 (m) A member of an association who is denied access to or  
7 copies of association books or records to which the member is  
8 entitled under this section may file a petition with the justice of  
9 the peace of a justice precinct in which all or part of the property  
10 that is governed by the association is located requesting relief in  
11 accordance with this subsection. If the justice of the peace finds  
12 that the member is entitled to access to or copies of the records,  
13 the justice of the peace may grant one or more of the following  
14 remedies:

15 (1) a judgment ordering the association to release or  
16 allow access to the books or records;

17 (2) a judgment against the association for court costs  
18 and attorney's fees incurred in connection with seeking a remedy  
19 under this section; or

20 (3) a judgment authorizing the unit owner or the  
21 owner's assignee to deduct the amounts awarded under Subdivision  
22 (2) from any future regular or special assessments payable to the  
23 association.

24 (n) If the association prevails in an action under  
25 Subsection (m), the association is entitled to a judgment for court  
26 costs and attorney's fees incurred by the association in connection  
27 with the action.

1       (o) On or before the 10th business day before the date a  
2 person brings an action against an association under this section,  
3 the person must send written notice to the association of the  
4 person's intent to bring the action. The notice must:

5           (1) be sent certified mail, return receipt requested,  
6 or delivered by the United States Postal Service with signature  
7 confirmation service to the mailing address of the association or  
8 authorized representative as reflected on the most current  
9 management certificate filed under Section 82.116; and

10           (2) describe with sufficient detail the books and  
11 records being requested.

12       (p) An association may not foreclose an assessment lien if  
13 the debt securing the lien consists solely of amounts added to the  
14 unit owner's account as an assessment under Subsection (h).

15       (q) For the purposes of this section, "business day" means a  
16 day other than Saturday, Sunday, or a state or federal holiday.

17       SECTION 6. (a) Sections 81.209(b) and 82.114(b), Property  
18 Code, as amended by this Act, and Sections 81.2091 and 82.1141,  
19 Property Code, as added by this Act, apply only with respect to  
20 information requested or sought on or after the effective date of  
21 this Act. Access to information requested or sought before the  
22 effective date of this Act is governed by the law in effect  
23 immediately before that date, and that law is continued in effect  
24 for that purpose.

25       (b) The requirements of Sections 81.2091(1) and 82.1141(1),  
26 Property Code, as added by this Act, apply only with respect to  
27 books and records generated on or after the effective date of this



1 Act. Books and records generated before the effective date of this  
2 Act are governed by the law applicable to the books and records  
3 immediately before the effective date of this Act, and that law is  
4 continued in effect for that purpose.

5 SECTION 7. This Act takes effect January 1, 2014.