

By: Bohac

H.B. No. 971

Substitute the following for H.B. No. 971:

By: Oliveira

C.S.H.B. No. 971

A BILL TO BE ENTITLED

AN ACT

1
2 relating to requirements governing officers and directors of
3 condominium unit owners' associations and property owners'
4 associations.

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

6 SECTION 1. Subchapter C, Chapter 81, Property Code, is
7 amended by adding Section 81.2011 to read as follows:

8 Sec. 81.2011. BOARD MEMBERS AND OFFICERS. (a) Each officer
9 or member of a board of directors or other governing body, if any,
10 of a condominium regime is:

11 (1) liable as a fiduciary of the unit owners for the
12 officer's or member's acts or omissions; and

13 (2) subject to Sections 82.103(f) and (g), 82.1031,
14 and 82.1032.

15 (b) For purposes of this section, a reference to "this
16 chapter" in Section 82.1031 means Chapter 81 and Chapter 82.

17 (c) To the extent a fiduciary duty imposed by Subsection
18 (a)(1) conflicts with a duty imposed by Chapter 22, Business
19 Organizations Code, Subsection (a)(1) prevails.

20 SECTION 2. Section 82.103, Property Code, is amended by
21 adding Subsection (a-1) to read as follows:

22 (a-1) To the extent a duty imposed by Subsection (a)
23 conflicts with a duty imposed by Chapter 22, Business Organizations
24 Code, Subsection (a) prevails.

1 SECTION 3. Subchapter C, Chapter 82, Property Code, is
2 amended by adding Sections 82.1031 and 82.1032 to read as follows:

3 Sec. 82.1031. BOARD MEMBER AND OFFICER DUTIES. (a) Before
4 taking office, an officer or board member of a unit owners'
5 association shall read:

6 (1) this chapter;

7 (2) the dedicatory instruments and written policies of
8 the condominium regime and the unit owners' association; and

9 (3) if applicable, Chapter 22, Business Organizations
10 Code.

11 (b) Not later than the 90th day after the date an officer or
12 board member is elected or appointed, the officer or board member
13 shall file a sworn statement with the secretary of the association
14 affirming that the officer or board member has complied with
15 Subsection (a).

16 (c) An officer or board member is required to comply with
17 Subsection (b) only after the officer or board member is first
18 elected or appointed, unless the officer or board member does not
19 serve continuously.

20 (d) An officer or board member who fails to comply with
21 Subsection (b) is temporarily suspended from office until the date
22 the officer or board member complies with that subsection. The
23 board may appoint another person to perform the duties of the office
24 until the earlier of the date the officer's or board member's term
25 of office expires or the date the officer or board member complies
26 with Subsection (b). The temporary appointee must comply with
27 Subsection (b).

1 (e) The association shall keep with the association records
2 under Section 82.114 each sworn statement filed under Subsection
3 (b) until at least the fifth anniversary of the date the officer or
4 board member who filed the statement was elected or appointed.

5 Sec. 82.1032. REMOVAL FROM OFFICE. If the board of a unit
6 owners' association is presented with written, documented evidence
7 from a database or other record maintained by a governmental law
8 enforcement authority that a board member of the association was
9 convicted of a felony or crime involving moral turpitude not more
10 than 20 years before the date the board is presented with the
11 evidence, the board member is immediately ineligible to serve in
12 that capacity, automatically considered removed from office, and
13 prohibited from future service as a board member of the
14 association.

15 SECTION 4. Chapter 209, Property Code, is amended by adding
16 Section 209.00595 to read as follows:

17 Sec. 209.00595. OFFICER OR BOARD MEMBER DUTIES. (a) Before
18 taking office, an officer or board member of a property owners'
19 association shall read:

20 (1) this chapter;

21 (2) the dedicatory instruments and written policies of
22 the property owners' association; and

23 (3) if applicable, Chapter 22, Business Organizations
24 Code.

25 (b) Not later than the 90th day after the date an officer or
26 board member is elected or appointed, the officer or board member
27 shall file a sworn statement with the secretary of the association

1 affirming that the officer or board member has complied with
2 Subsection (a).

3 (c) An officer or board member is required to comply with
4 Subsection (b) only after the officer or board member is first
5 elected or appointed, unless the officer or board member does not
6 serve continuously.

7 (d) An officer or board member who fails to comply with
8 Subsection (b) is temporarily suspended from office until the date
9 the officer or board member complies with that subsection. The
10 board may appoint another person to perform the duties of the office
11 until the earlier of the date the officer's or board member's term
12 of office expires or the date the officer or board member complies
13 with Subsection (b). The temporary appointee must comply with
14 Subsection (b).

15 (e) The association shall keep with the association records
16 under Section 209.005 each sworn statement filed under Subsection
17 (b) until at least the fifth anniversary of the date the officer or
18 board member who filed the statement was elected or appointed.

19 SECTION 5. (a) The changes in law made by this Act apply to
20 an officer or board member of a unit owners' association or a
21 property owners' association who is:

22 (1) elected or appointed to office on or after the
23 effective date of this Act; or

24 (2) serving in office on the effective date of this
25 Act.

26 (b) Not later than December 1, 2015, an officer or board
27 member of a unit owners' association or a property owners'

1 association serving in office on the effective date of this Act must
2 comply with the requirements imposed by Section 82.1031 or
3 209.00595, Property Code, as added by this Act, as applicable.

4 SECTION 6. This Act takes effect September 1, 2015.