

By: Bohac

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) While in office, an officer or board member of a unit
12 owners' association shall:

13 (1) uphold and comply with:

14 (A) this chapter;

15 (B) the dedicatory instruments and written
16 policies of the condominium regime and the unit owners'
17 association; and

18 (C) if applicable, Chapter 22, Business
19 Organizations Code; and

20 (2) faithfully discharge the fiduciary duties the
21 officer or board member owes to the unit owners.

22 (c) Not later than the 90th day after the date an officer or
23 board member is elected or appointed, the officer or board member
24 shall file a sworn statement with the secretary of the association
25 affirming that the officer or board member:

26 (1) has complied with Subsection (a); and

27 (2) while serving as an officer or board member, will

1 comply with Subsection (b).

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

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

14 (f) The association shall keep with the association records
15 under Section 82.114 each sworn statement filed under Subsection
16 (c) until at least the fifth anniversary of the date the officer or
17 board member who filed the statement was elected or appointed.

18 Sec. 82.1032. REMOVAL FROM OFFICE. If the board of a unit
19 owners' association is presented with written, documented evidence
20 from a database or other record maintained by a governmental law
21 enforcement authority that a board member of the association has
22 been convicted of a felony or crime involving moral turpitude, the
23 board member is immediately ineligible to serve in that capacity,
24 automatically removed from office, and prohibited from future
25 service as a board member of the association.

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

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

4 (1) this chapter; and

5 (2) the dedicatory instruments and written policies of
6 the property owners' association.

7 (b) While in office, an officer or board member of a
8 property owners' association shall:

9 (1) uphold and comply with:

10 (A) this chapter; and

11 (B) the dedicatory instruments and written
12 policies of the residential subdivision and the property owners'
13 association; and

14 (2) faithfully discharge the officer's or board
15 member's duties.

16 (c) Not later than the 90th day after the date an officer or
17 board member is elected or appointed, the officer or board member
18 shall file a sworn statement with the secretary of the association
19 affirming that the officer or board member:

20 (1) has complied with Subsection (a); and

21 (2) while serving as an officer or board member, will
22 comply with Subsection (b).

23 (d) An officer or board member is required to comply with
24 Subsection (c) only after the officer or board member is first
25 elected or appointed, unless the officer or board member does not
26 serve continuously.

27 (e) An officer or board member who fails to comply with

1 Subsection (c) is temporarily suspended from office until the date
2 the officer or board member complies with that subsection. The
3 board may appoint another person to perform the duties of the office
4 until the earlier of the date the officer's or board member's term
5 of office expires or the date the officer or board member complies
6 with Subsection (c). The temporary appointee must comply with
7 Subsection (c).

8 (f) The association shall keep with the association records
9 under Section 209.005 each sworn statement filed under Subsection
10 (c) until at least the fifth anniversary of the date the officer or
11 board member who filed the statement was elected or appointed.

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

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

17 (2) serving in office on the effective date of this
18 Act.

19 (b) Not later than December 1, 2015, an officer or board
20 member of a unit owners' association or a property owners'
21 association serving in office on the effective date of this Act must
22 comply with the requirements imposed by Section 82.1031 or
23 209.00595, Property Code, as added by this Act, as applicable.

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