

AN ACT

relating to the operation of certain property owners' associations,  
condominium unit owners' associations, and councils of owners.

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

SECTION 1. Section 82.157(a), Property Code, is amended to  
read as follows:

(a) Except as provided by Subsection (c), if a unit owner  
other than a declarant intends to sell a unit, before executing a  
contract or conveying the unit, the unit owner must furnish to the  
purchaser a current copy of the declaration, bylaws, any  
association rules, and a resale certificate that must have been  
prepared not earlier than three months before the date it is  
delivered to the purchaser. The resale certificate must be issued  
by the association and must contain the current operating budget of  
the association and statements of:

(1) any right of first refusal or other restraint  
contained in the declaration that restricts the right to transfer a  
unit;

(2) the amount of the periodic common expense  
assessment and the unpaid common expenses or special assessments  
currently due and payable from the selling unit owner;

(3) other unpaid fees or amounts payable to the  
association by the selling unit owner;

(4) capital expenditures, if any, approved by the

1 association for the next 12 months;

2 (5) the amount of reserves, if any, for capital  
3 expenditures and of portions of those reserves designated by the  
4 association for a specified project;

5 (6) any unsatisfied judgments against the  
6 association;

7 (7) the nature of any pending suits against the  
8 association;

9 (8) insurance coverage provided for the benefit of  
10 unit owners;

11 (9) whether the board has knowledge that any  
12 alterations or improvements to the unit or to the limited common  
13 elements assigned to that unit violate the declaration, bylaws, or  
14 association rules;

15 (10) whether the board has received notice from a  
16 governmental authority concerning violations of health or building  
17 codes with respect to the unit, the limited common elements  
18 assigned to that unit, or any other portion of the condominium;

19 (11) the remaining term of any leasehold estate that  
20 affects the condominium and the provisions governing an extension  
21 or renewal of the lease; ~~and~~

22 (12) the name, mailing address, and telephone number  
23 of the association's managing agent, if any;

24 (13) the association's current operating budget and  
25 balance sheet; and

26 (14) all fees payable to the association or an agent of  
27 the association that are associated with the transfer of ownership,

1 including a description of each fee, to whom the fee is paid, and  
2 the amount of the fee.

3 SECTION 2. Section 207.001(2), Property Code, is amended to  
4 read as follows:

5 (2) "Dedictory instrument," "property owners'  
6 association," and "restrictive covenant" have the meanings  
7 assigned by Section 209.002 [~~202.001~~].

8 SECTION 3. Section 207.002, Property Code, is amended to  
9 read as follows:

10 Sec. 207.002. APPLICABILITY. (a) This chapter applies to  
11 a subdivision with a property owners' association that is entitled  
12 to levy regular or special assessments.

13 (b) This chapter does not apply to a condominium council of  
14 owners governed by Chapter 81 or a condominium unit owners'  
15 association governed by Chapter 82.

16 SECTION 4. Section 209.002, Property Code, is amended by  
17 amending Subdivision (4-a) and adding Subdivision (13) to read as  
18 follows:

19 (4-a) "Development period" means a period stated in a  
20 declaration during which a declarant reserves:

21 (A) a right to facilitate the development,  
22 construction, and marketing of the subdivision; or [~~and~~]

23 (B) a right to direct the size, shape, and  
24 composition of the subdivision.

25 (13) "Verified mail" means any method of mailing for  
26 which evidence of mailing is provided by the United States Postal  
27 Service or a common carrier.

1 SECTION 5. Section 209.003(d), Property Code, is amended to  
2 read as follows:

3 (d) This chapter does not apply to a condominium as defined  
4 ~~[development governed]~~ by Section 81.002 or 82.003 ~~[Chapter 82]~~.

5 SECTION 6. Section 209.0041, Property Code, is amended by  
6 amending Subsection (h) and adding Subsections (h-1) and (h-2) to  
7 read as follows:

8 (h) Except as provided by Subsection (h-1) or (h-2) ~~[this~~  
9 ~~subsection]~~, a declaration may be amended only by a vote of 67  
10 percent of the total votes allocated to property owners entitled to  
11 vote on the amendment of the declaration ~~[in the property owners'~~  
12 ~~association]~~, in addition to any governmental approval required by  
13 law.

14 (h-1) If the declaration contains a lower percentage than  
15 prescribed by Subsection (h), the percentage in the declaration  
16 controls.

17 (h-2) If the declaration is silent as to voting rights for  
18 an amendment, the declaration may be amended by a vote of owners  
19 owning 67 percent of the lots subject to the declaration.

20 SECTION 7. Chapter 209, Property Code, is amended by adding  
21 Section 209.0042 to read as follows:

22 Sec. 209.0042. METHODS OF PROVIDING NOTICES TO OWNERS.

23 (a) Subject to this section, a property owners' association may  
24 adopt a method that may be used by the association to provide a  
25 notice from the association to a property owner.

26 (b) A property owners' association may use an alternative  
27 method of providing notice adopted under this section to provide a

1 notice for which another method is prescribed by law only if the  
2 property owner to whom the notice is provided has affirmatively  
3 opted to allow the association to use the alternative method of  
4 providing notice to provide to the owner notices for which another  
5 method is prescribed by law.

6 (c) A property owners' association may not require an owner  
7 to allow the association to use an alternative method of providing  
8 notice adopted under this section to provide to the owner any notice  
9 for which another method of providing notice is prescribed by law.

10 SECTION 8. Section 209.0051, Property Code, is amended by  
11 amending Subsections (b), (c-1), and (h) and adding Subsection  
12 (c-2) to read as follows:

13 (b) In this section, "board<sup>+</sup>  
14 [~~(1)~~ "Board] meeting":

15 (1) [~~(A)~~] means a deliberation between a quorum of the  
16 voting board of the property owners' association, or between a  
17 quorum of the voting board and another person, during which  
18 property owners' association business is considered and the board  
19 takes formal action; and

20 (2) [~~(B)~~] does not include the gathering of a quorum  
21 of the board at a social function unrelated to the business of the  
22 association or the attendance by a quorum of the board at a  
23 regional, state, or national convention, ceremonial event, or press  
24 conference, if formal action is not taken and any discussion of  
25 association business is incidental to the social function,  
26 convention, ceremonial event, or press conference.

27 [~~(2)~~ "Development period" means a period stated in a

1 ~~declaration during which a declarant reserves:~~

2 ~~[(A) a right to facilitate the development,~~  
3 ~~construction, and marketing of the subdivision; and~~

4 ~~[(B) a right to direct the size, shape, and~~  
5 ~~composition of the subdivision.]~~

6 (c-1) Except for a meeting held by electronic or telephonic  
7 means under Subsection (c-2) ~~[(h)]~~, a board meeting must be held in  
8 a county in which all or part of the property in the subdivision is  
9 located or in a county adjacent to that county.

10 (c-2) A board meeting may be held by electronic or  
11 telephonic means provided that:

12 (1) each board member may hear and be heard by every  
13 other board member;

14 (2) except for any portion of the meeting conducted in  
15 executive session:

16 (A) all owners in attendance at the meeting may  
17 hear all board members; and

18 (B) owners are allowed to listen using any  
19 electronic or telephonic communication method used or expected to  
20 be used by a board member to participate; and

21 (3) the notice of the meeting includes instructions  
22 for owners to access any communication method required to be  
23 accessible under Subdivision (2)(B).

24 (h) Except as provided by this subsection, a [A] board may  
25 take action outside of a meeting ~~[meet by any method of~~  
26 ~~communication]~~, including voting by electronic or [and] telephonic  
27 means, without prior notice to owners under Subsection (e), if each

1 board member is given a reasonable opportunity to express the board  
2 member's opinion to all other board members and to vote [~~director~~  
3 ~~may hear and be heard by every other director, or the board may take~~  
4 ~~action by unanimous written consent to consider routine and~~  
5 ~~administrative matters or a reasonably unforeseen emergency or~~  
6 ~~urgent necessity that requires immediate board action~~]. Any action  
7 taken without notice to owners under Subsection (e) must be  
8 summarized orally, including an explanation of any known actual or  
9 estimated expenditures approved at the meeting, and documented in  
10 the minutes of the next regular or special board meeting. The board  
11 may not, unless done in an open meeting for which [~~without~~]  
12 notice was given to owners under Subsection (e), consider or vote  
13 on:

- 14 (1) fines;
- 15 (2) damage assessments;
- 16 (3) initiation of foreclosure actions;
- 17 (4) initiation of enforcement actions, excluding  
18 temporary restraining orders or violations involving a threat to  
19 health or safety;
- 20 (5) increases in assessments;
- 21 (6) levying of special assessments;
- 22 (7) appeals from a denial of architectural control  
23 approval; [~~or~~]
- 24 (8) a suspension of a right of a particular owner  
25 before the owner has an opportunity to attend a board meeting to  
26 present the owner's position, including any defense, on the issue;
- 27 (9) lending or borrowing money;

1           (10) the adoption or amendment of a dedicatory  
2 instrument;

3           (11) the approval of an annual budget or the approval  
4 of an amendment of an annual budget that increases the budget by  
5 more than 10 percent;

6           (12) the sale or purchase of real property;

7           (13) the filling of a vacancy on the board;

8           (14) the construction of capital improvements other  
9 than the repair, replacement, or enhancement of existing capital  
10 improvements; or

11           (15) the election of an officer.

12           SECTION 9. Section 209.0056, Property Code, is amended by  
13 amending Subsection (a) and adding Subsection (a-1) to read as  
14 follows:

15           (a) For an election or vote taken at a meeting of the owners,  
16 not [~~Not~~] later than the 10th day or earlier than the 60th day  
17 before the date of the [~~an~~] election or vote, a property owners'  
18 association shall give written notice of the election or vote to:

19                   (1) each owner of property in the property owners'  
20 association, for purposes of an association-wide election or vote;  
21 or

22                   (2) each owner of property in the property owners'  
23 association entitled under the dedicatory instruments to vote in a  
24 particular representative election, for purposes of a vote that  
25 involves election of representatives of the association who are  
26 vested under the dedicatory instruments of the property owners'  
27 association with the authority to elect or appoint board members of



1 the property owners' association.

2 (a-1) For an election or vote of owners not taken at a  
3 meeting, the property owners' association shall give notice of the  
4 election or vote to all owners entitled to vote on any matter under  
5 consideration. The notice shall be given not later than the 20th  
6 day before the latest date on which a ballot may be submitted to be  
7 counted.

8 SECTION 10. Section 209.0057, Property Code, is amended by  
9 amending Subsections (b), (c), and (d) and adding Subsections  
10 (b-1), (b-2), (b-3), and (b-4) to read as follows:

11 (b) Any owner may, not later than the 15th day after the  
12 later of the date of any [the] meeting of owners at which the  
13 election or vote was held or the date of the announcement of the  
14 results of the election or vote, require a recount of the votes. A  
15 demand for a recount must be submitted in writing either:

16 (1) by verified [~~certified~~] mail[, ~~return receipt~~  
17 ~~requested,~~] or by delivery by the United States Postal Service with  
18 signature confirmation service to the property owners'  
19 association's mailing address as reflected on the latest management  
20 certificate filed under Section 209.004; or

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

25 (b-1) The property owners' association must estimate the  
26 costs for performance of the recount by a person qualified to  
27 tabulate votes under Subsection (c) and must send an invoice for the

1 estimated costs to the requesting owner at the owner's last known  
2 address according to association records not later than the 20th  
3 day after the date the association receives the owner's demand for  
4 the recount.

5 (b-2) The owner demanding a recount under this section must  
6 pay the invoice described by Subsection (b-1) in full to the  
7 property owners' association on or before the 30th day after the  
8 date the invoice is sent to the owner.

9 (b-3) If the invoice described by Subsection (b-1) is not  
10 paid by the deadline prescribed by Subsection (b-2), the owner's  
11 demand for a recount is considered withdrawn and a recount is not  
12 required.

13 (b-4) If the estimated costs under Subsection (b-1) are  
14 lesser or greater than the actual costs, the property owners'  
15 association must send a final invoice to the owner on or before the  
16 30th business day after the date the results of the recount are  
17 provided. If the final invoice includes additional amounts owed by  
18 the owner, any additional amounts not paid to the association  
19 before the 30th business day after the date the invoice is sent to  
20 the owner may be added to the owner's account as an assessment. If  
21 the estimated costs exceed the final invoice amount, the owner is  
22 entitled to a refund. The refund shall be paid to the owner at the  
23 time the final invoice is sent under this subsection.

24 (c) Following receipt of payment under Subsection (b-2),  
25 the [The] property owners' association shall, at the expense of the  
26 owner requesting the recount, retain for the purpose of performing  
27 the recount[~~r~~] the services of a person qualified to tabulate votes

1 under this subsection. The association shall enter into a contract  
2 for the services of a person who:

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

7 (2) is:

8 (A) a current or former:

- 9 (i) county judge;
- 10 (ii) county elections administrator;
- 11 (iii) justice of the peace; or
- 12 (iv) county voter registrar; or

13 (B) a person agreed on by the association and  
14 each person [the persons] requesting the recount.

15 (d) On [Any recount under Subsection (b) must be performed  
16 on] or before the 30th day after the date of receipt of [a request  
17 and] payment for a recount in accordance with Subsection (b-2), the  
18 recount must be completed and the property owners' association must  
19 provide each owner who requested the recount with notice of the  
20 results of the recount [Subsections (b) and (c)]. If the recount  
21 changes the results of the election, the [property owners']  
22 association shall reimburse the requesting owner for the cost of  
23 the recount not later than the 30th day after the date the results  
24 of the recount are provided. ~~[The property owners' association~~  
25 ~~shall provide the results of the recount to each owner who requested~~  
26 ~~the recount.]~~ Any action taken by the board in the period between  
27 the initial election vote tally and the completion of the recount is

1 not affected by any recount.

2 SECTION 11. Section 209.0058, Property Code, is amended by  
3 amending Subsections (a) and (c) and adding Subsections (a-1) and  
4 (d) to read as follows:

5 (a) Except as provided by Subsection (d), a [Any] vote cast  
6 [in an election or vote] by a member of a property owners'  
7 association must be in writing and signed by the member if the vote  
8 is cast:

9 (1) outside of a meeting;

10 (2) in an election to fill a position on the board;

11 (3) on a proposed adoption or amendment of a  
12 dedicatory instrument;

13 (4) on a proposed increase in the amount of a regular  
14 assessment or the proposed adoption of a special assessment; or

15 (5) on the proposed removal of a board member.

16 (a-1) If a property owners' association elects to use a  
17 ballot for a vote on a matter other than a matter described by  
18 Subsection (a), the ballot must be:

19 (1) in writing and signed by the member; or

20 (2) cast by secret ballot in accordance with  
21 Subsection (d).

22 (c) In a property owners' association ~~[an association-wide]~~  
23 election, written and signed ballots are not required for  
24 uncontested races.

25 (d) A property owners' association may adopt rules to allow  
26 voting by secret ballot by association members. The association  
27 must take measures to reasonably ensure that:

1           (1) a member cannot cast more votes than the member is  
2 eligible to cast in an election or vote;

3           (2) the association counts each vote cast by a member  
4 that the member is eligible to cast; and

5           (3) in any election for the board, each candidate may  
6 name one person to observe the counting of the ballots, provided  
7 that this does not entitle any observer to see the name of the  
8 person who cast any ballot, and that any disruptive observer may be  
9 removed.

10           SECTION 12. Section 209.0059, Property Code, is amended by  
11 adding Subsection (c) to read as follows:

12           (c) In a residential development with 10 or fewer lots for  
13 which the declaration was recorded before January 1, 2015, a person  
14 may not vote in a property owners' association election unless the  
15 person is subject to a dedicatory instrument governing the  
16 association through which the association exercises its authority.

17           SECTION 13. Section 209.00591, Property Code, is amended by  
18 adding Subsection (a-1) and amending Subsection (c) to read as  
19 follows:

20           (a-1) Notwithstanding any other provision of this chapter,  
21 a property owners' association's bylaws may require one or more  
22 board members to reside in the subdivision subject to the  
23 dedicatory instruments but may not require all board members to  
24 reside in that subdivision. A requirement described by this  
25 subsection is not applicable during the development period.

26           (c) The declaration may provide for a period of declarant  
27 control of the association during which a declarant, or persons

1 designated by the declarant, may appoint and remove board members  
2 and the officers of the association, other than board members or  
3 officers elected by members of the property owners'  
4 association. Regardless of the period of declarant control  
5 provided by the declaration, on or before the 120th day after the  
6 date 75 percent of the lots that may be created and made subject to  
7 the declaration are conveyed to owners other than a declarant or a  
8 builder in the business of constructing homes who purchased the  
9 lots from the declarant for the purpose of selling completed homes  
10 built on the lots, at least one-third of the board members must be  
11 elected by owners other than the declarant. If the declaration  
12 does not include the number of lots that may be created and made  
13 subject to the declaration, at least one-third of the board members  
14 must be elected by owners other than the declarant not later than  
15 the 10th anniversary of the date the declaration was recorded.

16 SECTION 14. Section 209.00592, Property Code, is amended by  
17 amending Subsection (a) and adding Subsections (a-1) and (b-1) to  
18 read as follows:

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

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

23 (2) by absentee ballot in accordance with this  
24 section;

25 (3) by electronic ballot in accordance with this  
26 section; or

27 (4) by any method of representative or delegated

1 voting provided by a dedicatory instrument.

2 (a-1) Except as provided by this subsection, unless a  
3 dedicatory instrument provides otherwise, a property owners'  
4 association is not required to provide an owner with more than one  
5 voting method. An owner must be allowed to vote by absentee ballot  
6 or proxy.

7 (b-1) For purposes of Subsection (b), a nomination taken  
8 from the floor in a board member election is not considered an  
9 amendment to the proposal for the election.

10 SECTION 15. Section 209.00593, Property Code, is amended by  
11 adding Subsections (a-1), (a-2), and (a-3) and amending Subsection  
12 (d) to read as follows:

13 (a-1) At least 10 days before the date a property owners'  
14 association composed of more than 100 lots disseminates absentee  
15 ballots or other ballots to association members for purposes of  
16 voting in a board member election, the association must provide  
17 notice to the association members soliciting candidates interested  
18 in running for a position on the board. The notice must contain  
19 instructions for an eligible candidate to notify the association of  
20 the candidate's request to be placed on the ballot and the deadline  
21 to submit the candidate's request. The deadline may not be earlier  
22 than the 10th day after the date the association provides the notice  
23 required by this subsection.

24 (a-2) The notice required by Subsection (a-1) must be:

25 (1) mailed to each owner; or

26 (2) provided by:

27 (A) posting the notice in a conspicuous manner

1 reasonably designed to provide notice to association members:

2 (i) in a place located on the association's  
3 common property or, with the property owner's consent, on other  
4 conspicuously located privately owned property within the  
5 subdivision; or

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

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

10 (a-3) An association described by Subsection (a-1) shall  
11 include on each absentee ballot or other ballot for a board member  
12 election the name of each eligible candidate from whom the  
13 association received a request to be placed on the ballot in  
14 accordance with this section.

15 (d) This section does not apply to the appointment of a  
16 board member during a development period. [~~In this subsection,~~  
17 ~~"development period" means a period stated in a declaration during~~  
18 ~~which a declarant reserves:~~

19 [~~(1) a right to facilitate the development,~~  
20 ~~construction, and marketing of the subdivision; and~~

21 [~~(2) a right to direct the size, shape, and~~  
22 ~~composition of the subdivision.]~~

23 SECTION 16. Section 209.00594, Property Code, is amended by  
24 amending Subsections (b) and (c) and adding Subsections (b-1) and  
25 (d) to read as follows:

26 (b) A person other than a person described by Subsection (a)  
27 may tabulate votes in an association election or vote [~~but may not~~



1 ~~disclose to any other person how an individual voted].~~

2 (b-1) A person who tabulates votes under Subsection (b) or  
3 who performs a recount under Section 209.0057(c) may not disclose  
4 to any other person how an individual voted.

5 (c) Notwithstanding any other provision of this chapter or  
6 any other law, only a person [~~other than a person~~] who tabulates  
7 votes under Subsection (b) or who performs a recount under Section  
8 209.0057(c) [~~, including a person described by Subsection (a),~~] may  
9 be given access to the ballots cast in the election or vote [~~only as~~  
10 ~~part of a recount process authorized by law~~].

11 (d) This section may not be construed to affect a person's  
12 obligation to comply with a court order for the release of ballots  
13 or other voting records.

14 SECTION 17. Section 209.006, Property Code, is amended to  
15 read as follows:

16 Sec. 209.006. NOTICE REQUIRED BEFORE ENFORCEMENT ACTION.

17 (a) Before a property owners' association may suspend an owner's  
18 right to use a common area, file a suit against an owner other than a  
19 suit to collect a regular or special assessment or foreclose under  
20 an association's lien, charge an owner for property damage, or levy  
21 a fine for a violation of the restrictions or bylaws or rules of the  
22 association, the association or its agent must give written notice  
23 to the owner by certified mail [~~, return receipt requested~~].

24 (b) The notice must:

25 (1) describe the violation or property damage that is  
26 the basis for the suspension action, charge, or fine and state any  
27 amount due the association from the owner; [~~and~~]

1           (2) except as provided by Subsection (d), inform the  
2 owner that the owner:

3           (A) is entitled to a reasonable period to cure  
4 the violation and avoid the fine or suspension if the violation is  
5 of a curable nature and does not pose a threat to public health or  
6 safety [~~unless the owner was given notice and a reasonable~~  
7 ~~opportunity to cure a similar violation within the preceding six~~  
8 ~~months~~];

9           (B) may request a hearing under Section 209.007  
10 on or before the 30th day after the date [~~the owner receives~~] the  
11 notice was mailed to the owner; and

12           (C) may have special rights or relief related to  
13 the enforcement action under federal law, including the  
14 Servicemembers Civil Relief Act (50 U.S.C. App. [~~app.~~] Section 501  
15 et seq.), if the owner is serving on active military duty;

16           (3) specify the date by which the owner must cure the  
17 violation if the violation is of a curable nature and does not pose  
18 a threat to public health or safety; and

19           (4) be sent by verified mail to the owner at the  
20 owner's last known address as shown on the association records.

21           (c) The date specified in the notice under Subsection (b)(3)  
22 must provide a reasonable period to cure the violation if the  
23 violation is of a curable nature and does not pose a threat to  
24 public health or safety.

25           (d) Subsections (a) and (b) do not apply to a violation for  
26 which the owner has been previously given notice under this section  
27 and the opportunity to exercise any rights available under this

1 section in the preceding six months.

2 (e) If the owner cures the violation before the expiration  
3 of the period for cure described by Subsection (c), a fine may not  
4 be assessed for the violation.

5 (f) For purposes of this section, a violation is considered  
6 a threat to public health or safety if the violation could  
7 materially affect the physical health or safety of an ordinary  
8 resident.

9 (g) For purposes of this section, a violation is considered  
10 uncurable if the violation has occurred but is not a continuous  
11 action or a condition capable of being remedied by affirmative  
12 action. For purposes of this subsection, the nonrepetition of a  
13 one-time violation or other violation that is not ongoing is not  
14 considered an adequate remedy.

15 (h) The following are examples of acts considered uncurable  
16 for purposes of this section:

- 17 (1) shooting fireworks;  
18 (2) an act constituting a threat to health or safety;  
19 (3) a noise violation that is not ongoing;  
20 (4) property damage, including the removal or  
21 alteration of landscape; and  
22 (5) holding a garage sale or other event prohibited by  
23 a dedicatory instrument.

24 (i) The following are examples of acts considered curable  
25 for purposes of this section:

- 26 (1) a parking violation;  
27 (2) a maintenance violation;

1           (3) the failure to construct improvements or  
2 modifications in accordance with approved plans and  
3 specifications; and

4           (4) an ongoing noise violation such as a barking dog.

5           SECTION 18. Section 209.0062(c), Property Code, is amended  
6 to read as follows:

7           (c) A property owners' association is ~~may~~ not required to  
8 allow a payment plan for any amount that extends more than 18 months  
9 from the date of the owner's request for a payment plan. The  
10 association is not required to enter into a payment plan with an  
11 owner who failed to honor the terms of a previous payment plan  
12 during the two years following the owner's default under the  
13 previous payment plan. The association is not required to make a  
14 payment plan available to an owner after the period for cure  
15 described by Section 209.0064(b)(3) expires. The association is  
16 not required to allow an owner to enter into a payment plan more  
17 than once in any 12-month period.

18           SECTION 19. Section 209.0064(b), Property Code, is amended  
19 to read as follows:

20           (b) A property owners' association may not hold an owner  
21 liable for fees of a collection agent retained by the [~~property~~  
22 ~~owners~~'] association unless the association first provides written  
23 notice to the owner by certified mail [~~, return receipt requested,~~]  
24 that:

25           (1) specifies each delinquent amount and the total  
26 amount of the payment required to make the account current;

27           (2) if the association is subject to Section 209.0062

1 or the association's dedicatory instruments contain a requirement  
2 to offer a payment plan, describes the options the owner has to  
3 avoid having the account turned over to a collection agent,  
4 including information regarding availability of a payment plan  
5 through the association; and

6 (3) provides a period of at least 30 days for the owner  
7 to cure the delinquency before further collection action is taken.

8 SECTION 20. Section 209.009, Property Code, is amended to  
9 read as follows:

10 Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN  
11 CIRCUMSTANCES. A property owners' association may not foreclose a  
12 property owners' association's assessment lien if the debt securing  
13 the lien consists solely of:

- 14 (1) fines assessed by the association;  
15 (2) attorney's fees incurred by the association solely  
16 associated with fines assessed by the association; or  
17 (3) amounts added to the owner's account as an  
18 assessment under Section 209.005(i) or 209.0057(b-4).

19 SECTION 21. Section 209.0091, Property Code, is amended to  
20 read as follows:

21 Sec. 209.0091. PREREQUISITES TO FORECLOSURE: NOTICE AND  
22 OPPORTUNITY TO CURE FOR CERTAIN OTHER LIENHOLDERS. (a) A property  
23 owners' association may not file an application for an expedited  
24 court order authorizing foreclosure of the association's  
25 assessment lien as described by Section 209.0092(a) or a petition  
26 for judicial foreclosure of the association's assessment lien as  
27 described by Section 209.0092(d) [~~foreclose a property owners'~~

1 ~~association assessment lien on real property by giving notice of~~  
2 ~~sale under Section 51.002 or commencing a judicial foreclosure~~  
3 ~~action]~~ unless the association has:

4 (1) provided written notice of the total amount of the  
5 delinquency giving rise to the foreclosure to any other holder of a  
6 lien of record on the property whose lien is inferior or subordinate  
7 to the association's lien and is evidenced by a deed of trust; and

8 (2) provided the recipient of the notice an  
9 opportunity to cure the delinquency before the 61st day after the  
10 date the association mails [~~recipient receives~~] the notice  
11 described in Subdivision (1).

12 (b) Notice under this section must be sent by certified  
13 mail[~~, return receipt requested,~~] to the address for the lienholder  
14 shown in the deed records relating to the property that is subject  
15 to the property owners' association assessment lien.

16 (c) Notwithstanding any other law, notice under this  
17 section may be provided to any holder of a lien of record on the  
18 property.

19 SECTION 22. Section 209.0092, Property Code, is amended by  
20 amending Subsection (a) and adding Subsections (d) and (e) to read  
21 as follows:

22 (a) Except as provided by Subsection (c) or (d) and subject  
23 to Section 209.009, a property owners' association may not  
24 foreclose a property owners' association assessment lien unless the  
25 association first obtains a court order in an application for  
26 expedited foreclosure under the rules adopted by the supreme court  
27 under Subsection (b). A property owners' association may use the

1 procedure described by this subsection to foreclose any lien  
2 described by the association's dedicatory instruments. A property  
3 owners' association whose dedicatory instruments grant a right of  
4 foreclosure is considered to have any power of sale required by law  
5 as a condition of using the procedure described by this subsection.

6 (d) A property owners' association authorized to use the  
7 procedure described by Subsection (a) may in its discretion elect  
8 not to use that procedure and instead foreclose the association's  
9 assessment lien under court judgment foreclosing the lien and  
10 ordering the sale, pursuant to Rules 309 and 646a, Texas Rules of  
11 Civil Procedure.

12 (e) This section does not affect any right an association  
13 that is not authorized to use the procedure described by Subsection  
14 (a) may have to judicially foreclose the association's assessment  
15 lien as described by Subsection (d).

16 SECTION 23. Title 11, Property Code, is amended by adding  
17 Chapter 213 to read as follows:

18 CHAPTER 213. MODIFICATION OR TERMINATION OF RESTRICTIONS IN  
19 CERTAIN REAL ESTATE DEVELOPMENTS BY PROPERTY OWNERS' ASSOCIATION OR  
20 PROPERTY OWNER PETITION

21 Sec. 213.001. DEFINITIONS. In this chapter:

22 (1) "Amenity property" means real property the use of  
23 which is restricted by a dedicatory instrument to use as a golf  
24 course or country club.

25 (2) "Council of owners" has the meaning assigned by  
26 Section 81.002 as it relates to an existing condominium in a  
27 development.

1           (3) "Dedictory instrument" means a governing  
2 instrument that:

3                   (A) restricts amenity property to use as amenity  
4 property;

5                   (B) designates real property in the development,  
6 other than amenity property, as a beneficiary of a restriction  
7 described by Paragraph (A); and

8                   (C) addresses the establishment, maintenance,  
9 and operation of amenity property.

10           (4) "Development" means:

11                   (A) amenity property; and

12                   (B) all real property designated as beneficiary  
13 property in the dedicatory instrument.

14           (5) "Owner" means a person, or the person's personal  
15 representative, who holds record title to:

16                   (A) a lot or parcel of real property in a  
17 development; or

18                   (B) a unit or apartment of a condominium in the  
19 development.

20           (6) "Petition circulator" means a person authorized to  
21 circulate a petition under Section 213.005.

22           (7) "Property owners' association" means an  
23 incorporated or unincorporated association that:

24                   (A) is designated as the representative of the  
25 owners of lots or parcels of real property in a development;

26                   (B) has a membership primarily consisting of  
27 those owners; and



1           (C) manages or regulates all or part of the  
2 development for the benefit of those owners.

3           (8) "Restrictions" means one or more restrictive  
4 covenants contained or incorporated by reference in a properly  
5 recorded map, plat, replat, declaration, or other instrument filed  
6 in the real property records or map or plat records. The term  
7 includes any amendment or extension of the restrictions.

8           (9) "Restrictive covenant" means any covenant,  
9 condition, or restriction contained in a dedicatory instrument,  
10 whether mandatory, prohibitive, permissive, or administrative.

11           (10) "Unit owners' association" means an association  
12 of unit owners organized under Section 82.101 for a condominium in a  
13 development.

14           Sec. 213.002. FINDINGS AND PURPOSE. (a) The legislature  
15 finds that:

16           (1) a restriction on the use of an amenity property may  
17 create uncertainty if the owners of an amenity property are  
18 reluctant or unable to properly maintain or operate the amenity  
19 property;

20           (2) such uncertainty may discourage investment and  
21 negatively impact property values in the development;

22           (3) investors may be reluctant to or will not invest  
23 funds to revitalize an amenity property burdened with a restriction  
24 on its use;

25           (4) financial institutions may be reluctant to or will  
26 not provide financing to revitalize an amenity property burdened  
27 with a restriction on its use; and

1           (5) establishing a procedural option to allow for the  
2 modification or termination of the restriction would alleviate the  
3 uncertainty and encourage revitalization of the amenity property.

4           (b) The purpose of this chapter is to provide a procedural  
5 option for the modification or termination of a restriction on the  
6 use of an amenity property.

7           Sec. 213.003. MODIFICATION OR TERMINATION BY PETITION.

8           (a) Except as provided by Subsection (b), a restriction on the use  
9 of an amenity property may be modified or terminated by petition in  
10 accordance with this chapter.

11           (b) This chapter does not apply if:

12                 (1) a dedicatory instrument includes a procedure to  
13 modify or terminate a restriction on the use of an amenity property  
14 on approval of the owners of less than 75 percent of, as applicable,  
15 the lots or parcels of land and units or apartments of condominiums  
16 in the development; or

17                 (2) a restriction on the use of an amenity property may  
18 be modified or terminated under the procedures of Chapter 81, 82,  
19 201, or 209.

20           Sec. 213.004. PREREQUISITES FOR CIRCULATION. A petition  
21 may not be circulated under this chapter unless:

22                 (1) for a continuous period of at least 36 months, the  
23 amenity property has not been in operation; and

24                 (2) if zoning regulations apply to the amenity  
25 property, the owner of the amenity property has received all  
26 required zoning approvals for any proposed redevelopment of the  
27 amenity property.

1       Sec. 213.005. PETITION CIRCULATOR. A petition authorized  
2 by Section 213.003 may be circulated by:

- 3           (1) an owner;  
4           (2) a property owners' association that owns and  
5 manages the amenity property; or  
6           (3) a unit owners' association or council of owners  
7 that owns and manages the amenity property.

8       Sec. 213.006. CONTENTS OF PETITION. (a) The petition must  
9 include all relevant information about the proposed modification or  
10 termination, including:

- 11           (1) the name of the development, if any;  
12           (2) the name of the amenity property, if any;  
13           (3) the recording information of the restriction to be  
14 modified or terminated;  
15           (4) the text of the restriction subject to  
16 modification or termination;  
17           (5) the text of the restriction as modified or  
18 terminated; and  
19           (6) a comparison of the original language of the  
20 restriction and the restriction as modified or terminated, showing  
21 any insertion and deletion of language or punctuation.

22       (b) The petition must state:

- 23           (1) reasonable times and dates the petition circulator  
24 will be available at a location in the development to receive a  
25 signed statement required by Section 213.008;  
26           (2) a mailing address, e-mail address, and facsimile  
27 number to which a signed statement may be delivered; and

1           (3) the date by which a signed statement must be  
2 received to be counted.

3           Sec. 213.007. CIRCULATION PROCEDURE. (a) A petition  
4 circulator shall deliver a copy of the petition to:

5           (1) all owners of:

6           (A) each lot or parcel of real property in the  
7 development; and

8           (B) each unit or apartment of each condominium,  
9 if any, in the development; and

10          (2) each property owners' association, unit owners'  
11 association, and council of owners in the development.

12          (b) The petition circulator may deliver a copy of the  
13 petition in any reasonable manner, including:

14          (1) by regular mail or certified mail, return receipt  
15 requested, to the last known address of the owners or entities  
16 described by Subsections (a)(1) and (2);

17          (2) personal delivery to the owners or entities  
18 described by Subsections (a)(1) and (2); or

19          (3) at a regular meeting of a property owners'  
20 association, unit owners' association, or council of owners.

21          (c) If the petition circulator acts in good faith in  
22 determining ownership and delivering copies of the petition as  
23 required by this section, an owner's lack of receipt of a copy of  
24 the petition does not affect the application of a modification or  
25 termination of a restriction under this chapter to the amenity  
26 property.

27          Sec. 213.008. VOTE ON PROPOSAL. (a) The modification or

1 termination of the restriction is adopted if the owners of at least  
2 75 percent of the total number, as applicable, of the lots or  
3 parcels of land and the units or apartments of condominiums in the  
4 development, including the owner of the amenity property, vote in  
5 favor of the modification or termination of the restriction.

6 (b) An owner may cast a vote only by delivering to the  
7 petition circulator in accordance with Section 213.009 a signed  
8 statement that includes:

9 (1) the owner's name, the legal description or street  
10 address of the owner's property, and the owner's mailing address;

11 (2) a statement that the owner holds record title to  
12 the property;

13 (3) if more than one person owns an interest in the  
14 property, the name and mailing address of each co-owner; and

15 (4) a statement indicating whether the owner is in  
16 favor of or against the modification or termination proposed by the  
17 petition.

18 (c) An owner may vote only in favor of or against the  
19 modification or termination as proposed in the petition.

20 (d) If more than one person owns an interest in a lot or  
21 parcel of land or a unit or apartment of a condominium, the owners  
22 may cast only one vote for that lot, parcel, unit, or apartment.  
23 Except as otherwise provided by this subsection, the vote of  
24 multiple owners in favor of or against the modification or  
25 termination may be reflected by the signatures of a majority of the  
26 co-owners who return a signed statement. The vote of owners who are  
27 married may be reflected by the signature of only one of those

1 owners.

2 (e) A person whose only property interest in a lot or parcel  
3 of land or unit or apartment of a condominium is that of a contract  
4 purchaser, lienholder, or mineral interest holder may not cast a  
5 vote for that property under this chapter.

6 (f) A vote may be counted only if the vote is received before  
7 the deadline stated in the petition as required by Section  
8 213.006(b).

9 (g) The signed statement of an owner conclusively  
10 establishes that:

11 (1) the petition was received by the owner in  
12 accordance with Section 213.007; and

13 (2) the statement accurately reflects the vote of the  
14 owner.

15 Sec. 213.009. DELIVERY OF SIGNED STATEMENT. (a) The  
16 petition circulator must accept a signed statement described by  
17 Section 213.008 that is delivered:

18 (1) in person under Section 213.006(b) or otherwise;

19 (2) by first class mail to an address stated in the  
20 petition;

21 (3) by e-mail to an address stated in the petition; or

22 (4) by facsimile to a facsimile number stated in the  
23 petition.

24 (b) This section supersedes any contrary provision in a  
25 dedicatory instrument.

26 Sec. 213.010. CERTIFICATION OF RESULTS BY RECORDED  
27 AFFIDAVIT. (a) The petition circulator shall certify the result

1 of the votes by filing an affidavit with the county clerk of the  
2 county in which the restriction modified or terminated is recorded.

3 (b) The affidavit required by Subsection (a) must state:

4 (1) the name of the development, if any;

5 (2) the name of the amenity property, if any;

6 (3) the recording information of the restriction that  
7 was modified or terminated;

8 (4) the text of the restriction before modification or  
9 termination;

10 (5) the text of the restriction as modified or  
11 terminated;

12 (6) the number of votes in favor of and against the  
13 proposed modification or termination;

14 (7) the name and address of the petition circulator;

15 and

16 (8) the name, address, and telephone number of the  
17 person maintaining the documents in accordance with Section  
18 213.013.

19 (c) The petition circulator must affirm in the affidavit  
20 that the petition was delivered in accordance with Section 213.007.

21 Sec. 213.011. NOTICE. (a) The recording of the affidavit  
22 required by Section 213.010 constitutes notice that the restriction  
23 is modified or terminated.

24 (b) Notwithstanding Subsection (a), the petition circulator  
25 must deliver to each person who resides within 200 feet of the  
26 boundary of the amenity property a copy of the affidavit. The  
27 affidavit may be delivered by regular mail, by certified mail,

1 return receipt requested, or by personal delivery.

2 Sec. 213.012. EFFECTIVE DATE OF MODIFICATION OR  
3 TERMINATION. The modification or termination of the restriction  
4 takes effect on the later of:

5 (1) the date the affidavit required by Section 213.010  
6 is filed with the county clerk; or

7 (2) the date, if any, specified as the effective date  
8 in the petition.

9 Sec. 213.013. DOCUMENTATION AVAILABLE. At least one year  
10 after the date the affidavit is filed with the county clerk, the  
11 petition circulator shall make available for inspection and copying  
12 the original petition, the signed statements described by Section  
13 213.008, and the affidavit required by Section 213.010.

14 Sec. 213.014. EXPIRATION. This chapter expires September  
15 1, 2021.

16 SECTION 24. Section 209.0041(a), Property Code, is  
17 repealed.

18 SECTION 25. (a) Section 82.157(a), Property Code, as  
19 amended by this Act, applies only to a resale certificate issued on  
20 or after the effective date of this Act. A resale certificate  
21 issued before the effective date of this Act is governed by the law  
22 as it existed immediately before the effective date of this Act, and  
23 that law is continued in effect for that purpose.

24 (b) The changes in law made by this Act to Chapter 207,  
25 Property Code, apply only to a request for subdivision information  
26 made on or after the effective date of this Act and any resale  
27 certificate delivered in response to that request. A request for



1 subdivision information made before the effective date of this Act,  
2 any resale certificate delivered in response to that request, and  
3 any request for an update of that resale certificate are governed by  
4 the law as it existed immediately before that date, and that law is  
5 continued in effect for that purpose.

6 (c) Sections 209.0041, 209.0056, 209.0057, 209.0058,  
7 209.00592, 209.00593, and 209.00594(c), Property Code, as amended  
8 by this Act, apply only to an election or vote held on or after the  
9 effective date of this Act. An election or vote held before the  
10 effective date of this Act is governed by the law as it existed  
11 immediately before that date, and that law is continued in effect  
12 for that purpose.

13 (d) Section 209.006, Property Code, as amended by this Act,  
14 applies only to an enforcement action taken on or after the  
15 effective date of this Act. An enforcement action taken before the  
16 effective date of this Act is governed by the law as it existed  
17 immediately before that date, and that law is continued in effect  
18 for that purpose.

19 (e) Section 209.0064, Property Code, as amended by this Act,  
20 applies only to a collection action taken on or after the effective  
21 date of this Act. A collection action taken before the effective  
22 date of this Act is governed by the law as it existed immediately  
23 before that date, and that law is continued in effect for that  
24 purpose.

25 (f) Section 209.0091, Property Code, as amended by this Act,  
26 applies only to an application or petition filed on or after the  
27 effective date of this Act. An application or petition filed before

1 the effective date of this Act is governed by the law as it existed  
2 immediately before that date, and that law is continued in effect  
3 for that purpose.

4 SECTION 26. Chapter 213, Property Code, as added by this  
5 Act, does not apply to a petition circulated before the effective  
6 date of this Act.

7 SECTION 27. This Act takes effect September 1, 2015.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1168 passed the Senate on May 6, 2015, by the following vote: Yeas 27, Nays 4; and that the Senate concurred in House amendments on May 28, 2015, by the following vote: Yeas 26, Nays 5.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1168 passed the House, with amendments, on May 24, 2015, by the following vote: Yeas 142, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor