

By: Miles

S.B. No. 1844

A BILL TO BE ENTITLED

AN ACT

relating to the amendment of the dedicatory instruments of certain mixed-use real estate developments.

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

SECTION 1. Title 11, Property Code, is amended by adding Chapter 214 to read as follows:

CHAPTER 214. AMENDMENT OF DEDICATORY INSTRUMENTS OF CERTAIN MIXED-USE REAL ESTATE DEVELOPMENTS

Sec. 214.001. DEFINITIONS. In this chapter:

(1) "Declaration" means an instrument filed in the real property records of a county that includes restrictive covenants governing a real estate development.

(2) "Dedicatory instrument" has the meaning assigned by Section 202.001.

(3) "Mixed-use real estate development" means a real estate development that:

(A) contains at least 200 acres and not more than 250 acres of deed-restricted property composed of at least 10 separate tracts or parcels of property;

(B) includes:

(i) commercial properties, including hotel and retail properties, that constitute at least 70 percent of the total land area of the development; and

(ii) office properties that constitute at

1 least 50 percent of the total land area of the development;

2 (C) is governed by a property owners'
3 association; and

4 (D) is subject to a dedicatory instrument that:

5 (i) requires mandatory membership in the
6 property owners' association;

7 (ii) authorizes the property owners'
8 association to collect a regular assessment on all or a majority of
9 the property in the development;

10 (iii) requires the approval of owners of
11 more than:

12 (a) 90 percent of the ground area
13 constituting the development to change a provision of the
14 dedicatory instrument governing the permitted use of a property; or

15 (b) 60 percent of the ground area
16 constituting the development to change a provision of the
17 dedicatory instrument that is not related to the permitted use of a
18 property; and

19 (iv) provides that voting for an amendment
20 is based on the number of acres owned by each owner.

21 (4) "Property owners' association" has the meaning
22 assigned by Section 202.001.

23 Sec. 214.002. APPLICABILITY OF CHAPTER. (a) This chapter
24 applies only to a mixed-use real estate development that is located
25 in:

26 (1) a municipality with a population of two million or
27 more; and

1 (2) a county with a population of 3.3 million or more.

2 (b) This chapter applies to a dedicatory instrument
3 regardless of the date on which the dedicatory instrument was
4 created.

5 Sec. 214.003. AMENDMENT OF DEDICATORY INSTRUMENT. (a)
6 This section supersedes any conflicting requirement in a dedicatory
7 instrument of a mixed-use real estate development.

8 (b) To the extent of any conflict with another provision of
9 this title, this section prevails.

10 (c) Except as provided by Subsection (d), a declaration of a
11 mixed-use real estate development may be amended only by a vote of a
12 majority of the total votes allocated to property owners entitled
13 to vote on the amendment of the declaration.

14 (d) If the declaration contains a lower approval
15 requirement than prescribed by Subsection (c), the approval
16 requirement in the declaration controls. If the declaration is
17 silent as to voting rights for an amendment, the declaration may be
18 amended by a vote of a majority of the total votes allocated to
19 property owners entitled to vote on the amendment of the
20 declaration.

21 (e) A bylaw of a mixed-use real estate development may not
22 be amended to conflict with this section.

23 SECTION 2. This Act takes effect September 1, 2019.