

By: Miles  
(Vo)

S.B. No. 1845

Substitute the following for S.B. No. 1845:

By: Martinez Fischer

C.S.S.B. No. 1845

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) "Current developer" means an owner of one or more tracts or lots in a mixed-use real estate development, or the owner's affiliate, who:

(A) is the current declarant in the declaration governing the development; and

(B) currently holds the developer rights for the development.

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

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

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

(A) contains at least 200 acres and not more than

1 250 acres of deed-restricted property composed of at least 10  
2 separate tracts or parcels of property;

3 (B) includes:

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

7 (ii) office properties that constitute at  
8 least 50 percent of the total land area of the development;

9 (C) may include other real estate uses;

10 (D) is governed by a property owners'  
11 association; and

12 (E) is subject to a dedicatory instrument that:

13 (i) requires mandatory membership in the  
14 property owners' association;

15 (ii) authorizes the property owners'  
16 association to collect a regular assessment on all or a majority of  
17 the property in the development;

18 (iii) requires the approval of owners of  
19 more than:

20 (a) 90 percent of the ground area  
21 constituting the development to change a provision of the  
22 dedicatory instrument governing the permitted use of a property; or

23 (b) 60 percent of the ground area  
24 constituting the development to change a provision of the  
25 dedicatory instrument that is not related to the permitted use of a  
26 property; and

27 (iv) provides that voting for an amendment

1 is based on the number of acres owned by each owner.

2 (5) "Property owners' association" has the meaning  
3 assigned by Section 202.001.

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

7 (1) a municipality with a population of two million or  
8 more; and

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

10 (b) This chapter does not apply to:

11 (1) a mixed-use real estate development that includes  
12 single-family residential properties; or

13 (2) a condominium subject to Chapter 81 or 82.

14 (c) This chapter applies to a dedicatory instrument  
15 regardless of the date on which the dedicatory instrument was  
16 created.

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

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

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

26 (d) If the declaration contains a lower approval  
27 requirement than prescribed by Subsection (c), the approval

1 requirement in the declaration controls. If the declaration is  
2 silent as to voting rights for an amendment, the declaration may be  
3 amended by a vote of a majority of the total votes allocated to  
4 property owners entitled to vote on the amendment of the  
5 declaration.

6 (e) While the mixed-use real estate development has a  
7 current developer, an amendment made to the declaration under this  
8 section requires the current developer to consent to the amendment  
9 to be valid.

10 (f) A bylaw of a mixed-use real estate development may not  
11 be amended to conflict with this section.

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