

By: Hughes

S.B. No. 1668

A BILL TO BE ENTITLED

AN ACT

relating to property owners' associations, including condominium owners' associations.

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

SECTION 1. Section 82.003(a), Property Code, is amended by adding Subdivision (17-a) to read as follows:

(17-a) "Management company" means a person or entity established or contracted to provide management or administrative services on behalf of a unit owners' association organized under Section 82.101.

SECTION 2. Subchapter C, Chapter 82, Property Code, is amended by adding Section 82.1142 to read as follows:

Sec. 82.1142. ONLINE ASSOCIATION INFORMATION REQUIRED. (a) This section only applies to:

(1) the association of a condominium composed of at least 60 units; or

(2) an association that has contracted with a management company.

(b) An association to which this section applies shall make the current version of the association's dedicatory instruments relating to the association and filed in the county deed records available on an Internet website that is:

(1) maintained by the association or a management company on behalf of the association; and

1 (2) accessible to association members.

2 SECTION 3. Section 82.116, Property Code, is amended by
3 amending Subsections (a), (b), and (c) and adding Subsections (b-1)
4 and (d) to read as follows:

5 (a) An association shall record in each county in which any
6 portion of the condominium is located a management certificate,
7 signed and acknowledged by an officer of the association, stating:

8 (1) the name of the condominium;

9 (2) the name of the association;

10 (3) the location of the condominium;

11 (4) the recording data for the declaration and any
12 amendments to the declaration;

13 (5) the mailing address of the association; ~~or~~

14 (6) the name, ~~and~~ mailing address, telephone number,
15 and e-mail address of any management company ~~[the person or entity~~
16 managing the association];

17 (7) the website address of any Internet website on
18 which the association's dedicatory instruments are available in
19 accordance with Section 82.1142;

20 (8) the amount and description of a fee or fees charged
21 to a unit seller or buyer relating to a transfer of a property
22 interest in a unit of the condominium; and

23 (9) ~~(6)~~ other information the association considers
24 appropriate.

25 (b) The association shall record an amended ~~a~~ management
26 certificate not later than the 30th day after the date the
27 association has notice of a change in any information in a recorded

1 certificate required by Subsection (a) [~~Subdivisions (a)(1)-(5)~~].

2 (b-1) Not later than the seventh day after the date an
3 association files a management certificate for recording under
4 Subsection (a) or files an amended management certificate for
5 recording under Subsection (b), the association shall
6 electronically file the management certificate or amended
7 management certificate with the Texas Real Estate Commission. The
8 Texas Real Estate Commission shall only collect the management
9 certificate and amended management certificate for the purpose of
10 making the data accessible to the public through an Internet
11 website.

12 (c) Except as provided by Subsection (d), the [The]
13 association and its officers, directors, employees, and agents are
14 not subject to liability to any person for delay or failure to
15 record a management certificate with a county clerk's office or to
16 electronically file the management certificate with the Texas Real
17 Estate Commission, unless the delay or failure is wilful or caused
18 by gross negligence.

19 (d) A unit owner is not liable for attorney's fees incurred
20 by an association relating to the collection of a delinquent
21 assessment against the unit owner, or interest on the delinquent
22 assessment, if the attorney's fees are incurred by the association
23 or the interest accrues during the period a management certificate
24 is not recorded with a county clerk or electronically filed with the
25 Texas Real Estate Commission, as required by this section.

26 SECTION 4. Section 82.157, Property Code, is amended by
27 adding Subsection (f) to read as follows:

1 (f) An association may charge a reasonable and necessary
2 fee, not to exceed \$375, to furnish a resale certificate under
3 Subsection (a).

4 SECTION 5. Section 202.023, Property Code, is amended by
5 amending Subsection (c) and adding Subsection (d) to read as
6 follows:

7 (c) This section does not prohibit a property owners'
8 association from:

9 (1) prohibiting the installation of a security camera
10 by a property owner in a place other than the property owner's
11 private property; ~~or~~

12 (2) regulating the type of fencing that a property
13 owner may install;

14 (3) prohibiting the placement of fencing that
15 obstructs:

16 (A) a license area, as defined by a written
17 license agreement or plat or other dedicatory instrument; or

18 (B) a sidewalk or drainage easement or drainage
19 area;

20 (4) requiring a driveway gate to be set back at least
21 18 feet from the right-of-way if the driveway intersects with a
22 laned roadway, as defined by Section 541.302, Transportation Code;
23 or

24 (5) if provided by a dedicatory instrument,
25 prohibiting the installation of fencing in front of the frontmost
26 building line of a dwelling.

27 (d) Notwithstanding Subsection (c), a property owner may

1 maintain any perimeter fencing or fencing in front of a dwelling's
2 frontmost building line installed or constructed before September
3 1, 2023.

4 SECTION 6. Section 209.00505(c), Property Code, is
5 redesignated as Section 209.00506, Property Code, and amended to
6 read as follows:

7 Sec. 209.00506. ELIGIBILITY TO SERVE ON ARCHITECTURAL
8 REVIEW AUTHORITY. (a) This section applies only to an
9 architectural review authority to which Section 209.00505 applies.

10 (b) Except as provided by Subsection (d), a person may not
11 be appointed or elected to serve on an architectural review
12 authority unless the person timely notifies the association of the
13 person's interest in serving on the authority in accordance with
14 Section 209.00507.

15 (c) Except as provided by Subsection (d), a [A] person may
16 not be appointed or elected to serve on an architectural review
17 authority if the person is:

- 18 (1) a current board member;
- 19 (2) a current board member's spouse; or
- 20 (3) a person residing in a current board member's
21 household.

22 (d) If a vacancy remains on the architectural review
23 authority after each person eligible under Subsection (c) who
24 timely notifies the association in accordance with Section
25 209.00507 is appointed or elected to the authority, the association
26 may appoint any person to fill the vacancy, including a person not
27 otherwise eligible under Subsection (c).

1 SECTION 7. Chapter 209, Property Code, is amended by adding
2 Section 209.00507 to read as follows:

3 Sec. 209.00507. SOLICITATION OF CANDIDATES FOR
4 ARCHITECTURAL REVIEW AUTHORITY. (a) This section applies only to
5 an architectural review authority to which Section 209.00505
6 applies.

7 (b) Not later than the 10th day before the date a property
8 owners' association or board takes action to elect or appoint or
9 meets to elect or appoint a person to serve on the architectural
10 review authority, the association must provide notice to the
11 association members soliciting persons interested in serving on the
12 architectural review authority.

13 (c) The notice required under Subsection (b) must:

14 (1) be provided:

15 (A) by mail to each owner; or

16 (B) by:

17 (i) posting the notice in a conspicuous
18 manner reasonably designed to provide notice to association
19 members:

20 (a) in a place located on the
21 association's common property or, with the property owner's
22 consent, on other conspicuously located privately owned property
23 within the subdivision; or

24 (b) on any Internet website
25 maintained by the association or other Internet media; and

26 (ii) sending the notice by e-mail to each
27 owner who has registered an e-mail address with the association;

1 and

2 (2) contain instructions for a person to notify the
3 association of the person's interest in serving on the
4 architectural review authority, including the date by which the
5 person's notification must be received by the association.

6 (d) The date by which a person must notify the association
7 of the person's interest in serving on the architectural review
8 authority may not be earlier than the 10th day after the date the
9 association provides the notice described by Subsection (c).

10 SECTION 8. A condominium unit owners' association that has
11 recorded a management certificate or amended management
12 certificate with a county clerk under Section 82.116, Property
13 Code, before the effective date of this Act shall electronically
14 file the most recently recorded management certificate or amended
15 management certificate with the Texas Real Estate Commission as
16 required by Section 82.116(b-1), Property Code, as added by this
17 Act, not later than March 1, 2024.

18 SECTION 9. This Act takes effect September 1, 2023.