

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(c), Property Code, is amended to
5 read as follows:

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

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

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

13 (3) prohibiting the placement of fencing that
14 obstructs a sidewalk, drainage area, or easement or license areas;

15 (4) requiring a driveway gate to be set back a
16 sufficient distance from the street to prevent a vehicle entering
17 the gate from impeding a passing vehicle or pedestrian;

18 (5) unless otherwise provided by a dedicatory
19 instrument, prohibiting the installation of fencing in front of the
20 front-most building line of a dwelling; or

21 (6) imposing other regulations related to the building
22 or installation of security measures that the property owners'
23 association determines are necessary to prevent or minimize a
24 hazard or risk to health or safety.

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

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

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

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

- 12 (1) a current board member;
- 13 (2) a current board member's spouse; or
- 14 (3) a person residing in a current board member's
- 15 household.

16 (d) If a vacancy remains on the architectural review
17 authority after each person eligible under Subsection (c) who
18 timely notifies the association in accordance with Section
19 209.00507 is appointed or elected to the authority, the association
20 may appoint any person to fill the vacancy, including a person not
21 otherwise eligible under Subsection (c).

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

24 Sec. 209.00507. SOLICITATION OF CANDIDATES FOR
25 ARCHITECTURAL REVIEW AUTHORITY. (a) This section applies only to
26 an architectural review authority to which Section 209.00505
27 applies.

1 (b) Not later than the 10th day before the date a property
2 owners' association or board takes action to elect or appoint or
3 meets to elect or appoint a person to serve on the architectural
4 review authority, the association must provide notice to the
5 association members soliciting persons interested in serving on the
6 architectural review authority.

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

8 (1) be provided:

9 (A) by mail to each owner; or

10 (B) by:

11 (i) posting the notice in a conspicuous
12 manner reasonably designed to provide notice to association
13 members:

14 (a) in a place located on the
15 association's common property or, with the property owner's
16 consent, on other conspicuously located privately owned property
17 within the subdivision; or

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

20 (ii) sending the notice by e-mail to each
21 owner who has registered an e-mail address with the association;
22 and

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

27 (d) The date by which a person must notify the association

1 of the person's interest in serving on the architectural review
2 authority may not be earlier than the 10th day after the date the
3 association provides the notice described by Subsection (c).

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

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