

By: Creighton

S.B. No. 1767

A BILL TO BE ENTITLED

AN ACT

relating to organization of, meetings of, and voting by condominium unit owners' associations and property owners' associations.

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

SECTION 1. Section 82.101, Property Code, is amended to read as follows:

Sec. 82.101. ORGANIZATION OF UNIT OWNERS' ASSOCIATION. A unit owners' association must be organized as a profit or nonprofit corporation. The declarant may not convey a unit until the secretary of state has issued a certificate of formation [~~incorporation~~] under the Texas Corporation Law [~~Article 3.03, Texas Business Corporation Act, or Article 3.03, Texas Non-Profit Corporation Act (Article 1396-3.03, Vernon's Texas Civil Statutes)~~]. The membership of the association at all times consists exclusively of all the unit owners or, following termination of the condominium, all former unit owners entitled to distribution of proceeds, or the owners' heirs, successors, or assigns.

SECTION 2. Section 82.108, Property Code, is amended by amending Subsections (c), (d), and (e) and adding Subsections (b-1) and (c-1) to read as follows:

(b-1) A meeting of the association may be held by any method of communication, including electronic and telephonic means as provided by Section 6.002, Business Organizations Code.

(c) A [~~Unless the declaration, bylaws, or articles of~~

1 ~~incorporation of the association provide otherwise:~~

2 ~~[(1) a]~~ meeting of the board may be held by any method
3 of communication, including electronic and telephonic means as
4 provided by Section 6.002, Business Organizations Code, if:

5 (1) ~~[(A)]~~ notice of the meeting has been given in
6 accordance with Subsection (e);

7 (2) ~~[(B)]~~ each director may hear and be heard by every
8 other director; and

9 (3) ~~[(C)]~~ the meeting does not involve voting on a
10 fine, damage assessment, appeal from a denial of architectural
11 control approval, or suspension of a right of a particular
12 association member before the member has an opportunity to attend a
13 board meeting to present the member's position, including any
14 defense, on the issue.

15 (c-1) The ~~[, and~~

16 ~~[(2) the]~~ board may act by unanimous written consent
17 of all the directors, without a meeting, if:

18 (1) ~~[(A)]~~ the board action does not involve voting on
19 a fine, damage assessment, appeal from a denial of architectural
20 control approval, or suspension of a right of a particular
21 association member before the member has an opportunity to attend a
22 board meeting to present the member's position, including any
23 defense, on the issue; and

24 (2) ~~[(B)]~~ a record of the board action is filed with
25 the minutes of board meetings.

26 (d) Notice of a meeting of the association must be given as
27 provided by the bylaws, or, if the bylaws do not provide for notice,

1 notice must be given to each unit owner in the same manner in which
2 notice is given to members of a nonprofit corporation under
3 Sections 6.051 and 22.156, Business Organizations Code [~~Section A,~~
4 ~~Article 2.11, Texas Non-Profit Corporation Act (Article 1396-2.11,~~
5 ~~Vernon's Texas Civil Statutes)~~].

6 (e) Notice of a meeting of the board must be given as
7 provided by the bylaws, or, if the bylaws do not provide for notice,
8 notice must be given to each board member in the same manner in
9 which notice is given to members of the board of a nonprofit
10 corporation under Sections 6.051, 6.052, and 22.217, Business
11 Organizations Code [~~Section B, Article 2.19, Texas Non-Profit~~
12 ~~Corporation Act (Article 1396-2.19, Vernon's Texas Civil~~
13 ~~Statutes)~~].

14 SECTION 3. Section 82.110, Property Code, is amended by
15 adding Subsection (d) to read as follows:

16 (d) Voting may be conducted electronically as provided by
17 Section 6.002, Business Organizations Code.

18 SECTION 4. Section 209.0056, Property Code, is amended by
19 adding Subsection (d) to read as follows:

20 (d) A meeting of the owners held under this section may be
21 held by any method of communication, including electronic and
22 telephonic means as provided by Section 6.002, Business
23 Organizations Code.

24 SECTION 5. Section 209.00592(a-1), Property Code, is
25 amended to read as follows:

26 (a-1) Except as provided by this subsection, unless a
27 dedicatory instrument provides otherwise, a property owners'

1 association is not required to provide an owner with more than one
2 voting method. An owner must be allowed to vote by one of the
3 following voting methods:

4 (1) absentee ballot; [~~or~~]

5 (2) proxy; or

6 (3) electronic ballot.

7 SECTION 6. This Act takes effect September 1, 2023.