

**19 POA-SPECIFIC BILLS
ENACTED BY THE 82ND TEXAS LEGISLATURE
(2011)**

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Prepared for
**NEW DAY FOR TEXAS HOAS: OVERVIEW OF 2011 REFORM
LEGISLATION FOR CONDOS AND OWNERS ASSOCIATIONS**

Presented June 30, 2011
State Bar of Texas Webcast
by Roy D. Hailey and Sharon Reuler

AN ACT

relating to prohibiting certain private transfer fees and the preservation of private real property rights; providing penalties.

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

SECTION 1. Chapter 5, Property Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. CERTAIN PRIVATE TRANSFER FEES PROHIBITED;

PRESERVATION OF PRIVATE REAL PROPERTY RIGHTS

Sec. 5.201. DEFINITIONS. In this subchapter:

(1) "Encumbered property" means all property, including the property of a subsequent purchaser, subject to the same private transfer fee obligation.

(2) "Lender" means a lending institution, including a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, life insurance company, and governmental agency, that customarily provides financing or an affiliate of a lending institution.

(3) "Payee" means a person who claims the right to receive or collect a private transfer fee payable under a private transfer fee obligation and who may or may not have a pecuniary interest in the obligation.

(4) "Private transfer fee" means an amount of money, regardless of the method of determining the amount, that is payable on the transfer of an interest in real property or payable for a

1 right to make or accept a transfer.

2 (5) "Private transfer fee obligation" means an
3 obligation to pay a private transfer fee created under:

4 (A) a declaration or other covenant recorded in
5 the real property records in the county in which the property
6 subject to the private transfer fee obligation is located;

7 (B) a contractual agreement or promise; or

8 (C) an unrecorded contractual agreement or
9 promise.

10 (6) "Subsequent owner" means a person who acquires
11 real property by transfer from a person other than the person who is
12 the seller of the property on the date the private transfer fee
13 obligation is created.

14 (7) "Subsequent purchaser" means a person who
15 purchases real property from a person other than the person who is
16 the seller on the date the private transfer fee obligation is
17 created. The term includes a lender who provides a mortgage loan to
18 a subsequent purchaser to purchase the property.

19 (8) "Transfer" means the sale, gift, conveyance,
20 assignment, inheritance, or other transfer of an ownership interest
21 in real property.

22 Sec. 5.202. CERTAIN PRIVATE TRANSFER FEE OBLIGATIONS VOID.

23 (a) Except as provided by this subchapter, a private transfer fee
24 obligation created on or after the effective date of this
25 subchapter is not binding or enforceable against a subsequent owner
26 or subsequent purchaser of an interest in real property and is void.

27 (b) For purposes of this subchapter, the following payments

1 are not considered private transfer fee obligations:

2 (1) consideration paid by a purchaser to a seller for
3 an interest in real property transferred, including, as applicable,
4 a mineral interest transferred, including additional consideration
5 paid to a seller for the property's appreciation, development, or
6 sale after the interest in the property has been transferred to the
7 purchaser, if the additional consideration is paid only once and
8 that payment does not bind successors in interest to the property to
9 any private transfer fee obligation;

10 (2) a commission paid to a licensed real estate broker
11 under a written agreement between a seller or purchaser and the
12 broker, including an additional commission for the property's
13 appreciation, development, or sale after the interest in property
14 is transferred to the purchaser;

15 (3) interest, a fee, a charge, or another type of
16 payment to a lender under a loan secured by a mortgage on the
17 property, including:

18 (A) a fee payable for the lender's consent to an
19 assumption of the loan or transfer of the property subject to the
20 mortgage;

21 (B) a fee or charge payable for an estoppel
22 letter or certificate;

23 (C) a shared appreciation interest or profit
24 participation; or

25 (D) other consideration payable in connection
26 with the loan;

27 (4) rent, reimbursement, a fee, a charge, or another

1 type of payment to a lessor under a lease, including a fee for
2 consent to an assignment, sublease, encumbrance, or transfer of a
3 lease;

4 (5) consideration paid to the holder of an option to
5 purchase an interest in property, or to the holder of a right of
6 first refusal or first offer to purchase an interest in property,
7 for waiving, releasing, or not exercising the option or right when
8 the property is transferred to another person;

9 (6) a fee payable to or imposed by a governmental
10 entity in connection with recording the transfer of the property;

11 (7) dues, a fee, a charge, an assessment, a fine, a
12 contribution, or another type of payment under a declaration or
13 other covenant or under law, including a fee or charge payable for a
14 change of ownership entered in the records of an association to
15 which this subdivision applies or an estoppel letter or resale
16 certificate issued under Section 207.003 by an association to which
17 this subdivision applies or the person identified under Section
18 209.004(a)(6), provided that no portion of the fee or charge is
19 required to be passed through to a third party designated or
20 identifiable in the declaration or other covenant or law or in a
21 document referenced in the declaration or other covenant or law,
22 unless paid to:

23 (A) an association as defined by Section 82.003
24 or 221.002 or the person or entity managing the association as
25 provided by Section 82.116(a)(5) or 221.032(b)(11), as applicable;

26 (B) a property owners' association as defined by
27 Section 202.001 or 209.002 or the person or entity described by

1 Section 209.004(a)(6); or

2 (C) a property owners' association as defined by
3 Section 202.001 that does not require an owner of property governed
4 by the association to be a member of the association or the person
5 or entity described by Section 209.004(a)(6);

6 (8) dues, a fee, a charge, an assessment, a fine, a
7 contribution, or another type of payment for the transfer of a club
8 membership related to the property;

9 (9) dues, a fee, a charge, an assessment, a fine, a
10 contribution, or another type of payment paid to an organization
11 exempt from federal taxation under Section 501(c)(3) or 501(c)(4),
12 Internal Revenue Code of 1986, only if the organization uses the
13 payments to directly benefit the encumbered property by:

14 (A) supporting or maintaining only the
15 encumbered property;

16 (B) constructing or repairing improvements only
17 to the encumbered property; or

18 (C) providing activities or infrastructure to
19 support quality of life, including cultural, educational,
20 charitable, recreational, environmental, and conservation
21 activities and infrastructure, that directly benefit the
22 encumbered property; or

23 (10) a fee payable to or imposed by the Veterans' Land
24 Board for consent to an assumption or transfer of a contract of sale
25 and purchase.

26 (c) The benefit described by Subsection (b)(9)(C) may
27 collaterally benefit a community composed of:

1 (1) property that is adjacent to the encumbered
2 property; or

3 (2) property a boundary of which is not more than 1,000
4 yards from a boundary of the encumbered property.

5 (d) Notwithstanding Subsection (c), an organization may
6 provide a direct benefit under Subsection (b)(9) if:

7 (1) the organization provides to the general public
8 activities or infrastructure described by Subsection (b)(9)(C);

9 (2) the provision of activities or infrastructure
10 substantially benefits the encumbered property; and

11 (3) the governing body of the organization:

12 (A) is controlled by owners of the encumbered
13 property; and

14 (B) approves payments for activities or
15 infrastructure at least annually.

16 (e) An organization may provide activities and
17 infrastructure described by Subsection (b)(9)(C) to another
18 organization exempt from federal taxation under Section 501(c)(3)
19 or 501(c)(4), Internal Revenue Code of 1986, at no charge for de
20 minimis usage without violating the requirements of this section.

21 Sec. 5.203. NOTICE REQUIREMENTS FOR CONTINUATION OF
22 EXISTING PRIVATE TRANSFER FEE OBLIGATIONS. (a) A person who
23 receives a private transfer fee under a private transfer fee
24 obligation created before the effective date of this subchapter
25 must, on or before January 31, 2012, file for record a "Notice of
26 Private Transfer Fee Obligation" as provided by this section in the
27 real property records of each county in which the property is

1 located.

2 (b) Multiple payees of a single private transfer fee under a
3 private transfer fee obligation must designate one payee as the
4 payee of record for the fee.

5 (c) A notice under Subsection (a) must:

6 (1) be printed in at least 14-point boldface type;

7 (2) state the amount of the private transfer fee and
8 the method of determination, if applicable;

9 (3) state the date or any circumstance under which the
10 private transfer fee obligation expires, if any;

11 (4) state the purpose for which the money from the
12 private transfer fee obligation will be used;

13 (5) notwithstanding Subsection (b), state the name of
14 each payee and each payee's contact information;

15 (6) state the name and address of the payee of record
16 to whom the payment of the fee must be sent;

17 (7) include the acknowledged signature of each payee
18 or authorized representative of each payee; and

19 (8) state the legal description of the property
20 subject to the private transfer fee obligation.

21 (d) A person required to file a notice under this section
22 shall:

23 (1) refile the notice described by this section not
24 earlier than the 30th day before the third anniversary of the
25 original filing date described by Subsection (a) and within a
26 similar 30-day period every third year thereafter; and

27 (2) amend the notice to reflect any change in the name

1 or address of any payee included in the notice not later than the
2 30th day after the date the change occurs.

3 (e) A person who amends a notice under Subsection (d)(2)
4 must include:

5 (1) the recording information of the original notice
6 filed as required by this section; and

7 (2) the legal description of the property subject to
8 the private transfer fee obligation.

9 (f) If a person required to file a notice under this section
10 fails to comply with this section:

11 (1) payment of the private transfer fee may not be a
12 requirement for the conveyance of an interest in the property to a
13 purchaser;

14 (2) the property is not subject to further obligation
15 under the private transfer fee obligation; and

16 (3) the private transfer fee obligation is void.

17 Sec. 5.204. ADDITIONAL COMPLIANCE REQUIREMENT: TIMELY
18 ACCEPTANCE OF FEES PAID UNDER EXISTING PRIVATE TRANSFER FEE
19 OBLIGATIONS. (a) The payee of record on the date a private
20 transfer fee is paid under a private transfer fee obligation
21 subject to Section 5.203 must accept the payment on or before the
22 30th day after the date the payment is tendered to the payee.

23 (b) If the payee of record fails to comply with Subsection
24 (a):

25 (1) the payment must be returned to the remitter;

26 (2) payment of the private transfer fee may not be a
27 requirement for the conveyance of an interest in the property to a

1 purchaser; and

2 (3) the property is not subject to further obligation
3 under the private transfer fee obligation.

4 Sec. 5.205. DISCLOSURE OF EXISTING TRANSFER FEE OBLIGATION
5 REQUIRED IN CONTRACT FOR SALE. A seller of real property that may
6 be subject to a private transfer fee obligation shall provide
7 written notice to a potential purchaser stating that the obligation
8 may be governed by this subchapter.

9 Sec. 5.206. WAIVER VOID. A provision that purports to waive
10 a purchaser's rights under this subchapter is void.

11 Sec. 5.207. INJUNCTIVE OR DECLARATORY RELIEF; PROVIDING
12 PENALTIES. (a) The attorney general may institute an action for
13 injunctive or declaratory relief to restrain a violation of this
14 subchapter.

15 (b) In addition to instituting an action for injunctive or
16 declaratory relief under Subsection (a), the attorney general may
17 institute an action for civil penalties against a payee for a
18 violation of this chapter. Except as provided by Subsection (c), a
19 civil penalty assessed under this section may not exceed an amount
20 equal to two times the amount of the private transfer fee charged or
21 collected by the payee in violation of this subchapter.

22 (c) If the court in which an action under Subsection (b) is
23 pending finds that a payee violated this subchapter with a
24 frequency that constitutes a pattern or practice, the court may
25 assess a civil penalty not to exceed \$250,000.

26 (d) The comptroller shall deposit to the credit of the
27 general revenue fund all money collected under this section.

1 SECTION 2. Section 5.017, Property Code, is repealed.

2 SECTION 3. Section 5.205, Property Code, as added by this
3 Act, applies only to a contract for the sale of real property
4 entered into on or after January 1, 2012. A contract for the sale of
5 real property entered into before January 1, 2012, is governed by
6 the law in effect immediately before the effective date of this Act,
7 and the former law is continued in effect for that purpose.

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 8 was passed by the House on May 4, 2011, by the following vote: Yeas 135, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 8 on May 21, 2011, by the following vote: Yeas 142, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 8 was passed by the Senate, with amendments, on May 19, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

1 AN ACT

2 relating to the amendment of restrictions affecting real property
3 in certain subdivisions.

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

5 SECTION 1. Section 211.001(4), Property Code, is amended to
6 read as follows:

7 (4) "Residential real estate subdivision" or
8 "subdivision" means all land encompassed within one or more maps or
9 plats of land that is divided into two or more parts if:

10 (A) the maps or plats cover land all or part of
11 which [~~that~~] is not located within a municipality and:

12 (i) for a county with a population of less
13 than 65,000, is not located [~~or~~] within the extraterritorial
14 jurisdiction of a municipality; or

15 (ii) for a county with a population of at
16 least 65,000 and less than 135,000, is located wholly within the
17 extraterritorial jurisdiction of a municipality;

18 (B) the land encompassed within the maps or plats
19 is or was burdened by restrictions limiting all or at least a
20 majority of the land area covered by the map or plat, excluding
21 streets and public areas, to residential use only; and

22 (C) all instruments creating the restrictions
23 are recorded in the deed or real property records of a county.

24 SECTION 2. Section 211.002, Property Code, is amended by

1 amending Subsection (a) and adding Subsections (b-1) and (d) to
2 read as follows:

3 (a) This chapter applies only to a residential real estate
4 subdivision or any unit or parcel of a subdivision:

5 (1) all or part of which is located [~~in whole or in~~
6 ~~part~~] within an unincorporated area of a county if the county has a
7 population of less than 65,000; or

8 (2) all of which is located within the
9 extraterritorial jurisdiction of a municipality located in a county
10 that has a population of at least 65,000 and less than 135,000.

11 (b-1) In addition to restrictions and units or parcels of a
12 subdivision that are subject to this chapter under Subsection (b),
13 this chapter applies to restrictions that affect real property
14 within a residential real estate subdivision or any units or
15 parcels of the subdivision and that, by the express terms of the
16 instrument creating the restrictions, provide that amendments to
17 the restrictions are not operative or effective until a specified
18 date or the expiration of a specified period. An amendment under
19 this chapter of a restriction described by this subsection is
20 effective as provided by this chapter, regardless of whether the
21 date specified in the restrictions has occurred or the period
22 prescribed by the restrictions has expired. This subsection
23 expires September 1, 2015.

24 (d) An amendment of a restriction under this chapter is
25 effective on the filing of an instrument reflecting the amendment
26 in the real property records of each county in which all or part of
27 the subdivision is located after the approval of the owners in

1 accordance with the amendment procedure adopted under Section
2 211.004.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 232 was passed by the House on April 26, 2011, by the following vote: Yeas 147, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 232 on May 27, 2011, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 232 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to the regulation by a property owners' association of the installation of solar energy devices and certain roofing materials on property.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Sections 202.010 and 202.011 to read as follows:

Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In this section:

(1) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development, construction, and marketing of the subdivision; and

(B) a right to direct the size, shape, and composition of the subdivision.

(2) "Solar energy device" has the meaning assigned by Section 171.107, Tax Code.

(b) Except as otherwise provided by Subsection (d), a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing a solar energy device.

(c) A provision that violates Subsection (b) is void.

(d) A property owners' association may include or enforce a provision in a dedicatory instrument that prohibits a solar energy

1 device that:

2 (1) as adjudicated by a court:

3 (A) threatens the public health or safety; or

4 (B) violates a law;

5 (2) is located on property owned or maintained by the
6 property owners' association;

7 (3) is located on property owned in common by the
8 members of the property owners' association;

9 (4) is located in an area on the property owner's
10 property other than:

11 (A) on the roof of the home or of another
12 structure allowed under a dedicatory instrument; or

13 (B) in a fenced yard or patio owned and
14 maintained by the property owner;

15 (5) if mounted on the roof of the home:

16 (A) extends higher than or beyond the roofline;

17 (B) is located in an area other than an area
18 designated by the property owners' association, unless the
19 alternate location increases the estimated annual energy
20 production of the device, as determined by using a publicly
21 available modeling tool provided by the National Renewable Energy
22 Laboratory, by more than 10 percent above the energy production of
23 the device if located in an area designated by the property owners'
24 association;

25 (C) does not conform to the slope of the roof and
26 has a top edge that is not parallel to the roofline; or

27 (D) has a frame, a support bracket, or visible

1 pipng or wiring that is not in a silver, bronze, or black tone
2 commonly available in the marketplace;

3 (6) if located in a fenced yard or patio, is taller
4 than the fence line;

5 (7) as installed, voids material warranties; or

6 (8) was installed without prior approval by the
7 property owners' association or by a committee created in a
8 dedicatory instrument for such purposes that provides decisions
9 within a reasonable period or within a period specified in the
10 dedicatory instrument.

11 (e) A property owners' association or the association's
12 architectural review committee may not withhold approval for
13 installation of a solar energy device if the provisions of the
14 dedicatory instruments to the extent authorized by Subsection (d)
15 are met or exceeded, unless the association or committee, as
16 applicable, determines in writing that placement of the device as
17 proposed by the property owner constitutes a condition that
18 substantially interferes with the use and enjoyment of land by
19 causing unreasonable discomfort or annoyance to persons of ordinary
20 sensibilities. For purposes of making a determination under this
21 subsection, the written approval of the proposed placement of the
22 device by all property owners of adjoining property constitutes
23 prima facie evidence that such a condition does not exist.

24 (f) During the development period, the declarant may
25 prohibit or restrict a property owner from installing a solar
26 energy device.

27 Sec. 202.011. REGULATION OF CERTAIN ROOFING MATERIALS. A

1 property owners' association may not include or enforce a provision
2 in a dedicatory instrument that prohibits or restricts a property
3 owner who is otherwise authorized to install shingles on the roof of
4 the owner's property from installing shingles that:

5 (1) are designed primarily to:

6 (A) be wind and hail resistant;

7 (B) provide heating and cooling efficiencies
8 greater than those provided by customary composite shingles; or

9 (C) provide solar generation capabilities; and

10 (2) when installed:

11 (A) resemble the shingles used or otherwise
12 authorized for use on property in the subdivision;

13 (B) are more durable than and are of equal or
14 superior quality to the shingles described by Paragraph (A); and

15 (C) match the aesthetics of the property
16 surrounding the owner's property.

17 SECTION 2. Sections 202.010 and 202.011, Property Code, as
18 added by this Act, apply to a dedicatory instrument without regard
19 to whether the dedicatory instrument takes effect or is renewed
20 before, on, or after the effective date of this Act.

21 SECTION 3. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 362 was passed by the House on April 11, 2011, by the following vote: Yeas 143, Nays 3, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 362 on May 27, 2011, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 362 on May 29, 2011, by the following vote: Yeas 143, Nays 1, 2 present, not voting.

Chief Clerk of the House

H.B. No. 362

I certify that H.B. No. 362 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 362 on May 29, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

1 AN ACT

2 relating to condominiums in certain municipalities, including the
3 exercise of eminent domain authority by those municipalities with
4 respect to certain condominiums.

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

6 SECTION 1. Section 2206.001, Government Code, is amended by
7 adding Subsection (b-1) to read as follows:

8 (b-1) Subsection (b)(3) does not prohibit the taking of
9 private property through the use of eminent domain for economic
10 development purposes if the economic development is a secondary
11 purpose resulting from the elimination of urban blight under
12 Subchapter I, Chapter 214, Local Government Code. This subsection
13 expires December 31, 2016.

14 SECTION 2. The heading to Section 82.118, Property Code, is
15 amended to read as follows:

16 Sec. 82.118. SERVICE OF PROCESS ON UNIT OWNERS IN CERTAIN
17 MUNICIPALITIES; CHANGE OF ADDRESS REQUIRED.

18 SECTION 3. Section 82.118, Property Code, is amended by
19 adding Subsection (c) to read as follows:

20 (c) Not later than the 90th day after the date a unit owner
21 changes the unit owner's mailing address, the owner must provide
22 written notice of the owner's new address to the appraisal district
23 in which the condominium is located.

24 SECTION 4. Section 82.153(a), Property Code, is amended to

1 read as follows:

2 (a) A condominium information statement must contain or
3 accurately disclose:

4 (1) the name and principal address of the declarant
5 and of the condominium;

6 (2) a general description of the condominium that
7 includes the types of units and the maximum number of units;

8 (3) the minimum and maximum number of additional
9 units, if any, that may be included in the condominium;

10 (4) a brief narrative description of any development
11 rights reserved by a declarant and of any conditions relating to or
12 limitations upon the exercise of development rights;

13 (5) copies of the declaration, articles of
14 incorporation of the association, the bylaws, any rules of the
15 association, and amendments to any of them, and copies of leases and
16 contracts, other than loan documents, that are required by the
17 declarant to be signed by purchasers at closing;

18 (6) a projected or pro forma budget for the
19 association that complies with Subsection (b) for the first fiscal
20 year of the association following the date of the first conveyance
21 to a purchaser, identification of the person who prepared the
22 budget, and a statement of the budget's assumptions concerning
23 occupancy and inflation factors;

24 (7) a general description of each lien, lease, or
25 encumbrance on or affecting the title to the condominium after
26 conveyance by the declarant;

27 (8) a copy of each written warranty provided by the

1 declarant;

2 (9) a description of any unsatisfied judgments against
3 the association and any pending suits to which the association is a
4 party or which are material to the land title and construction of
5 the condominium of which a declarant has actual knowledge;

6 (10) a general description of the insurance coverage
7 provided for the benefit of unit owners;

8 (11) current or expected fees or charges to be paid by
9 unit owners for the use of the common elements and other facilities
10 related to the condominium; and

11 (12) for a condominium located wholly or partly in a
12 municipality with a population of more than 1.9 million a statement
13 that a unit owner:

14 (A) as an alternative to personal service, may be
15 served with process by the municipality or the municipality's agent
16 for a judicial or administrative proceeding initiated by the
17 municipality and directly related to the unit owner's property
18 interest in the condominium by serving the unit owner at the unit
19 owner's last known address, according to the records of the
20 appraisal district in which the condominium is located, by any
21 means permitted by Rule 21a, Texas Rules of Civil Procedure;

22 (B) shall [~~promptly~~] notify the appraisal
23 district in writing of a change in the unit owner's mailing address
24 not later than the 90th day after the date the unit owner changes
25 the address; and

26 (C) may not offer proof in the judicial or
27 administrative proceeding, or in a subsequent related proceeding,

1 that otherwise proper service by mail of the notice was not received
2 not later than three days after the date the notice was deposited in
3 a post office or official depository under the care and custody of
4 the United States Postal Service.

5 SECTION 5. Chapter 214, Local Government Code, is amended
6 by adding Subchapter I to read as follows:

7 SUBCHAPTER I. EMINENT DOMAIN AUTHORITY OF CERTAIN MUNICIPALITIES
8 TO TAKE ABANDONED CONDOMINIUMS

9 Sec. 214.301. APPLICABILITY. This subchapter applies only
10 to a municipality with a population of more than 1.9 million.

11 Sec. 214.302. DEFINITION. In this subchapter,
12 "condominium" means a condominium as defined by Section 81.002 or
13 82.003, Property Code.

14 Sec. 214.303. EMINENT DOMAIN AUTHORITY. A municipality may
15 take a condominium through the use of eminent domain for the purpose
16 of the elimination of urban blight if a tract or unit of real
17 property on which the condominium sits presents the following
18 conditions for at least one year after the date on which notice of
19 the conditions is reasonably attempted to be provided to the
20 property owner:

21 (1) all lawful occupation of or construction activity
22 for the condominium has ceased;

23 (2) the property:

24 (A) contains uninhabitable, unsafe, and
25 unsanitary units that are not fit for their intended use because the
26 utilities, sewerage, plumbing, or heating or a similar service or
27 facility of the units has been destroyed, removed, or rendered

1 ineffective; or
2 (B) contained units described by Paragraph (A)
3 that were demolished in accordance with a court order issued under
4 Section 54.018, Local Government Code; and
5 (3) the property has been the location of
6 substantiated and repeated illegal activity of which the property
7 owner knew or should have known.

8 Sec. 214.304. EXPIRATION OF SUBCHAPTER. This subchapter
9 expires December 31, 2016.

10 SECTION 6. The change in law made by this Act applies only
11 to a condemnation proceeding in which the condemnation petition is
12 filed on or after the effective date of this Act and to any property
13 condemned through the proceeding. A condemnation proceeding in
14 which the condemnation petition is filed before the effective date
15 of this Act and any property condemned through the proceeding are
16 governed by the law in effect immediately before the effective date
17 of this Act, and that law is continued in effect for that purpose.

18 SECTION 7. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 364 was passed by the House on April 13, 2011, by the following vote: Yeas 74, Nays 72, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 364 on May 24, 2011, by the following vote: Yeas 113, Nays 30, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 364 was passed by the Senate, with amendments, on May 21, 2011, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor

1 AN ACT

2 relating to the extension of deed restrictions in certain
3 residential real estate subdivisions.

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

5 SECTION 1. The heading to Chapter 210, Property Code, is
6 amended to read as follows:

7 CHAPTER 210. EXTENSION OR MODIFICATION OF RESIDENTIAL RESTRICTIVE
8 COVENANTS BY PETITION IN CERTAIN SUBDIVISIONS

9 SECTION 2. Title 11, Property Code, is amended by adding
10 Chapter 212 to read as follows:

11 CHAPTER 212. EXTENSION OF RESTRICTIONS BY MAJORITY VOTE IN CERTAIN
12 SUBDIVISIONS

13 Sec. 212.001. DEFINITIONS. In this chapter, "lienholder,"
14 "owner," "restrictions," and "residential real estate subdivision"
15 or "subdivision" have the meanings assigned by Section 201.003.

16 Sec. 212.002. APPLICABILITY OF CHAPTER. This chapter
17 applies only to a residential real estate subdivision that:

18 (1) is located wholly or partly in a municipality with
19 a population of more than two million located in a county with a
20 population of 3.3 million or more; and

21 (2) is subject to restrictions the terms of which:

22 (A) provide that the restrictions expire;

23 (B) permit the restrictions to be extended after
24 the initial restriction period expires if a majority of the owners

1 of lots in the subdivision, by a written instrument that is
2 acknowledged and filed for record, signify consent to the extension
3 of the restrictions for a further period the maximum length of which
4 is specified by the restrictions; and

5 (C) do not expressly provide for or expressly
6 prohibit successive extensions of the restrictions after the
7 expiration of the initial extension period.

8 Sec. 212.003. PROCEDURE FOR SUCCESSIVE EXTENSIONS. (a)
9 Restrictions may be extended under this chapter by the written
10 consent of the owners of a majority of the lots in the subdivision,
11 without respect to the number of lots owned by a particular owner.

12 (b) Consent for the purposes of this section may be
13 reflected by an owner's signature on a petition or written ballot.

14 (c) Petitions, written ballots, or both may be distributed
15 to the owners of lots in the subdivision by any method, including
16 one or both of the following methods:

17 (1) by door-to-door circulation; or

18 (2) at a meeting of the owners of lots in the
19 subdivision called for the purpose of voting on the proposed
20 extension.

21 (d) The required signatures must be obtained during the same
22 extension period. The petitions, written ballots, or both, as
23 applicable, must be filed for record in the county in which the
24 subdivision is located before the earlier of:

25 (1) the first anniversary of the date on which the
26 first signature is obtained; or

27 (2) the expiration of the extension period during

1 which the signatures are collected.

2 (e) Restrictions may be extended under this chapter only
3 once during each unexpired extension period.

4 Sec. 212.004. EFFECT OF OWNER SIGNATURE. (a) The vote of
5 multiple owners of a lot may be reflected by the signature of one of
6 the owners.

7 (b) After an owner signs a petition or ballot under Section
8 212.003 or 212.007, the owner's subsequent conveyance of the
9 owner's interest in a lot or unplatted real property in the
10 subdivision does not affect the validity of the signature for the
11 purposes of that section.

12 Sec. 212.005. PROPERTY OWNERS' ASSOCIATION NOT REQUIRED.
13 Restrictions may be extended under this chapter without the
14 creation of or action by a property owners' association, homeowners
15 association, community association, civic club, or similar
16 organization.

17 Sec. 212.006. EFFECTIVE DATE OF EXTENSION; LENGTH OF
18 EXTENSION PERIOD. (a) An extension of restrictions under this
19 chapter takes effect on the date the petitions, written ballots, or
20 both, as applicable, sufficient to reflect the consent required by
21 Section 212.003 are filed and recorded in the real property records
22 of the county in which the subdivision is located.

23 (b) Subject to Section 212.007, an extension of
24 restrictions under this chapter is for a period equal to the
25 original term of the restrictions or a shorter period agreed to by
26 the owners of a majority of the lots in the subdivision in the
27 petitions, written ballots, or both, as applicable, signed under

1 Section 212.003.

2 Sec. 212.007. TERMINATION OF RESTRICTIONS. (a)

3 Restrictions extended under this chapter may be terminated before
4 their expiration date if:

5 (1) the consent of the owners of a majority of the lots
6 in the subdivision to the termination of the restrictions on a
7 specified date is obtained in the same manner as consent to the
8 extension of restrictions is obtained under this chapter; and

9 (2) the petitions, written ballots, or both, as
10 applicable, sufficient to reflect the required consent to
11 termination are filed for record in the real property records of the
12 county in which the subdivision is located before the earlier of:

13 (A) the first anniversary of the date on which
14 the first signature consenting to termination is obtained; or

15 (B) a date specified under Subsection (b)(2).

16 (b) Petitions, written ballots, or both, as applicable,
17 used to extend restrictions under this section may provide that:

18 (1) the restrictions may be terminated only on one or
19 more termination dates specified in the petitions, written ballots,
20 or both, as applicable, used to extend the restrictions; or

21 (2) the petitions, written ballots, or both, as
22 applicable, sufficient to reflect the required consent to
23 termination must be filed for record before a time specified in the
24 petitions, written ballots, or both, as applicable.

25 Sec. 212.008. APPLICABILITY OF EXTENDED RESTRICTIONS. (a)

26 An extension of restrictions under this chapter is binding on all
27 lots and all unplatted real property in the subdivision, without

1 regard to whether the owner or owners of any individual lot or
2 unplatted real property signify consent to extend the restrictions.
3 Any statute authorizing a property owner to opt out of the
4 applicability of restrictions to the owner's property does not
5 apply to restrictions extended under this chapter.

6 (b) An extension of restrictions under this chapter is
7 binding on a lienholder or a person who acquires title to property
8 at a foreclosure sale or by deed from a foreclosing lienholder.

9 Sec. 212.009. UNCONSTITUTIONAL RESTRICTIONS NOT EXTENDED.
10 If a provision in restrictions extended under this chapter is void
11 and unenforceable under the United States Constitution, the
12 restrictions are considered as if the void and unenforceable
13 provision was never contained in the restrictions.

14 Sec. 212.010. USE OF ORIGINAL EXTENSION PROCEDURE;
15 PROCEDURES CUMULATIVE. (a) In addition to the procedure provided
16 by this chapter for the extension of restrictions, the procedure
17 provided by the original restrictions for the initial extension of
18 the restrictions, including the requirement that a specified
19 percentage of a specified class approve the extension, may be used
20 for successive extensions of the original restrictions, provided
21 that the approval obtained includes the approval of the owners of
22 not less than a majority of the lots in the subdivision.

23 (b) An extension of the restrictions as described by
24 Subsection (a) is for a period equal to the original term of the
25 restrictions or a shorter period agreed to by the owners of a
26 majority of the lots in the subdivision.

27 (c) The procedure provided by this chapter for the extension

1 or termination of restrictions is cumulative of and not in lieu of
2 any other method by which restrictions of a subdivision to which
3 this chapter applies may be added to, modified, created, extended,
4 or terminated.

5 Sec. 212.011. CONSTRUCTION OF CHAPTER AND EXTENDED
6 RESTRICTIONS. (a) This chapter and any petition or ballot made or
7 action taken in connection with an attempt to comply with this
8 chapter shall be liberally construed to effectuate the intent of
9 this chapter and the petition, ballot, or action.

10 (b) A deed restriction that is extended under this chapter
11 shall be liberally construed to give effect to the restriction's
12 purposes and intent.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1071 was passed by the House on May 5, 2011, by the following vote: Yeas 141, Nays 0, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1071 was passed by the Senate on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to notice of relief available to certain members of the military required to be provided in certain real property documentation.

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

SECTION 1. Section 24.0051(d), Property Code, is amended to read as follows:

(d) In a suit described by Subsection (c), the citation required by Rule 739, Texas Rules of Civil Procedure, must include the following notice to the defendant on the first page of the citation in English and Spanish and in conspicuous bold print:

SUIT TO EVICT

THIS SUIT TO EVICT INVOLVES IMMEDIATE DEADLINES. A TENANT WHO IS SERVING ON ACTIVE MILITARY DUTY MAY HAVE SPECIAL RIGHTS OR RELIEF RELATED TO THIS SUIT UNDER FEDERAL LAW, INCLUDING THE SERVICEMEMBERS CIVIL RELIEF ACT (50 U.S.C. APP. SECTION 501 ET SEQ.), OR STATE LAW, INCLUDING SECTION 92.017, TEXAS PROPERTY CODE. CALL THE STATE BAR OF TEXAS TOLL-FREE AT 1-877-9TEXBAR IF YOU NEED HELP LOCATING AN ATTORNEY. IF YOU CANNOT AFFORD TO HIRE AN ATTORNEY, YOU MAY BE ELIGIBLE FOR FREE OR LOW-COST LEGAL ASSISTANCE.

SECTION 2. Section 51.002, Property Code, is amended by adding Subsection (i) to read as follows:

(i) A notice served on a debtor under this section must

1 contain, in addition to any other statements required under this
2 section, language substantially similar to the following:

3 "Assert and protect your rights as a member of the armed
4 forces of the United States. If you are or your spouse is serving on
5 active military duty, including active military duty as a member of
6 the Texas National Guard or the National Guard of another state or
7 as a member of a reserve component of the armed forces of the United
8 States, please send written notice of the active duty military
9 service to the sender of this notice immediately."

10 SECTION 3. Section 209.006(b), Property Code, is amended to
11 read as follows:

12 (b) The notice must:

13 (1) describe the violation or property damage that is
14 the basis for the suspension action, charge, or fine and state any
15 amount due the association from the owner; and

16 (2) inform the owner that the owner:

17 (A) is entitled to a reasonable period to cure
18 the violation and avoid the fine or suspension unless the owner was
19 given notice and a reasonable opportunity to cure a similar
20 violation within the preceding six months; ~~and~~

21 (B) may request a hearing under Section 209.007
22 on or before the 30th day after the date the owner receives the
23 notice; and

24 (C) may have special rights or relief related to
25 the enforcement action under federal law, including the
26 Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et
27 seq.), if the owner is serving on active military duty.

1 SECTION 4. The change in law made by Section 24.0051,
2 Property Code, as amended by this Act, applies only to a suit for
3 which notice is required under Chapter 24, Property Code, that is
4 filed on or after the effective date of this Act. A suit for which
5 notice is required under Chapter 24, Property Code, that is filed
6 before the effective date of this Act is governed by the law in
7 effect immediately before the effective date of this Act, and that
8 law is continued in effect for that purpose.

9 SECTION 5. The change in law made by Section 51.002,
10 Property Code, as amended by this Act, applies only to a sale for
11 which a notice is required under that section on or after the
12 effective date of this Act. A sale for which notice is required
13 under Section 51.002, Property Code, before the effective date of
14 this Act is governed by the law in effect immediately before the
15 effective date of this Act, and that law is continued in effect for
16 that purpose.

17 SECTION 6. The change in law made by Section 209.006,
18 Property Code, as amended by this Act, applies only to an
19 enforcement action for which a notice is required under that
20 section that commences on or after the effective date of this Act.
21 An enforcement action for which notice is required under Section
22 209.006, Property Code, that commences before the effective date of
23 this Act is governed by the law in effect when the enforcement
24 action commenced, and that law is continued in effect for that
25 purpose.

26 SECTION 7. This Act takes effect January 1, 2012.

President of the Senate

Speaker of the House

I certify that H.B. No. 1127 was passed by the House on April 26, 2011, by the following vote: Yeas 148, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1127 on May 21, 2011, by the following vote: Yeas 138, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1127 was passed by the Senate, with amendments, on May 19, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to payment and collection of assessments and other charges owed to a property owners' association and foreclosure of a property owners' association assessment lien.

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

SECTION 1. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) Section 209.0062 does not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines.

SECTION 2. Chapter 209, Property Code, is amended by adding Sections 209.0062, 209.0063, 209.0064, 209.0091, 209.0092, 209.0093, and 209.0094 to read as follows:

Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association composed of more than 14 lots shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties. For purposes of this section, monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

(b) The minimum term for a payment plan offered by a

1 property owners' association is three months.

2 (c) A property owners' association may not allow a payment
3 plan for any amount that extends more than 18 months from the date
4 of the owner's request for a payment plan. The association is not
5 required to enter into a payment plan with an owner who failed to
6 honor the terms of a previous payment plan during the two years
7 following the owner's default under the previous payment plan.

8 (d) A property owners' association shall file the
9 association's guidelines under this section in the real property
10 records of each county in which the subdivision is located.

11 (e) A property owners' association's failure to file as
12 required by this section the association's guidelines in the real
13 property records of each county in which the subdivision is located
14 does not prohibit a property owner from receiving an alternative
15 payment schedule by which the owner may make partial payments to the
16 property owners' association for delinquent regular or special
17 assessments or any other amount owed to the association without
18 accruing additional monetary penalties, as defined by Subsection
19 (a).

20 Sec. 209.0063. PRIORITY OF PAYMENTS. (a) Except as
21 provided by Subsection (b), a payment received by a property
22 owners' association from the owner shall be applied to the owner's
23 debt in the following order of priority:

- 24 (1) any delinquent assessment;
25 (2) any current assessment;
26 (3) any attorney's fees or third party collection
27 costs incurred by the association associated solely with

1 assessments or any other charge that could provide the basis for
2 foreclosure;

3 (4) any attorney's fees incurred by the association
4 that are not subject to Subdivision (3);

5 (5) any fines assessed by the association; and

6 (6) any other amount owed to the association.

7 (b) If, at the time the property owners' association
8 receives a payment from a property owner, the owner is in default
9 under a payment plan entered into with the association:

10 (1) the association is not required to apply the
11 payment in the order of priority specified by Subsection (a); and

12 (2) in applying the payment, a fine assessed by the
13 association may not be given priority over any other amount owed to
14 the association.

15 Sec. 209.0064. THIRD PARTY COLLECTIONS. (a) In this
16 section, "collection agent" means a debt collector, as defined by
17 Section 803 of the federal Fair Debt Collection Practices Act (15
18 U.S.C. Section 1692a).

19 (b) A property owners' association may not hold an owner
20 liable for fees of a collection agent retained by the property
21 owners' association unless the association first provides written
22 notice to the owner by certified mail, return receipt requested,
23 that:

24 (1) specifies each delinquent amount and the total
25 amount of the payment required to make the account current;

26 (2) describes the options the owner has to avoid
27 having the account turned over to a collection agent, including

1 information regarding availability of a payment plan through the
2 association; and

3 (3) provides a period of at least 30 days for the owner
4 to cure the delinquency before further collection action is taken.

5 (c) An owner is not liable for fees of a collection agent
6 retained by the property owners' association if:

7 (1) the obligation for payment by the association to
8 the association's collection agent for fees or costs associated
9 with a collection action is in any way dependent or contingent on
10 amounts recovered; or

11 (2) the payment agreement between the association and
12 the association's collection agent does not require payment by the
13 association of all fees to a collection agent for the action
14 undertaken by the collection agent.

15 (d) The agreement between the property owners' association
16 and the association's collection agent may not prohibit the owner
17 from contacting the association board or the association's managing
18 agent regarding the owner's delinquency.

19 (e) A property owners' association may not sell or otherwise
20 transfer any interest in the association's accounts receivables for
21 a purpose other than as collateral for a loan.

22 Sec. 209.0091. PREREQUISITES TO FORECLOSURE: NOTICE AND
23 OPPORTUNITY TO CURE FOR CERTAIN OTHER LIENHOLDERS. (a) A property
24 owners' association may not foreclose a property owners'
25 association assessment lien on real property by giving notice of
26 sale under Section 51.002 or commencing a judicial foreclosure
27 action unless the association has:

1 (1) provided written notice of the total amount of the
2 delinquency giving rise to the foreclosure to any other holder of a
3 lien of record on the property whose lien is inferior or subordinate
4 to the association's lien and is evidenced by a deed of trust; and

5 (2) provided the recipient of the notice an
6 opportunity to cure the delinquency before the 61st day after the
7 date the recipient receives the notice.

8 (b) Notice under this section must be sent by certified
9 mail, return receipt requested, to the address for the lienholder
10 shown in the deed records relating to the property that is subject
11 to the property owners' association assessment lien.

12 Sec. 209.0092. JUDICIAL FORECLOSURE REQUIRED. (a) Except
13 as provided by Subsection (c) and subject to Section 209.009, a
14 property owners' association may not foreclose a property owners'
15 association assessment lien unless the association first obtains a
16 court order in an application for expedited foreclosure under the
17 rules adopted by the supreme court under Subsection (b). A property
18 owners' association may use the procedure described by this
19 subsection to foreclose any lien described by the association's
20 dedicatory instruments.

21 (b) The supreme court, as an exercise of the court's
22 authority under Section 74.024, Government Code, shall adopt rules
23 establishing expedited foreclosure proceedings for use by a
24 property owners' association in foreclosing an assessment lien of
25 the association. The rules adopted under this subsection must be
26 substantially similar to the rules adopted by the supreme court
27 under Section 50(r), Article XVI, Texas Constitution.

1 (c) Expedited foreclosure is not required under this
2 section if the owner of the property that is subject to foreclosure
3 agrees in writing at the time the foreclosure is sought to waive
4 expedited foreclosure under this section. A waiver under this
5 subsection may not be required as a condition of the transfer of
6 title to real property.

7 Sec. 209.0093. REMOVAL OR ADOPTION OF FORECLOSURE
8 AUTHORITY. A provision granting a right to foreclose a lien on real
9 property for unpaid amounts due to a property owners' association
10 may be removed from a dedicatory instrument or adopted in a
11 dedicatory instrument by a vote of at least 67 percent of the total
12 votes allocated to property owners in the property owners'
13 association. Owners holding at least 10 percent of all voting
14 interests in the property owners' association may petition the
15 association and require a special meeting to be called for the
16 purposes of taking a vote for the purposes of this section.

17 Sec. 209.0094. ASSESSMENT LIEN FILING. A lien, lien
18 affidavit, or other instrument evidencing the nonpayment of
19 assessments or other charges owed to a property owners' association
20 and filed in the official public records of a county is a legal
21 instrument affecting title to real property.

22 SECTION 3. (a) Section 209.0062, Property Code, as added by
23 this Act, applies only to an assessment or other debt that becomes
24 due on or after the effective date of this Act. An assessment or
25 other debt that becomes due before the effective date of this Act is
26 governed by the law in effect immediately before the effective date
27 of this Act, and that law is continued in effect for that purpose.

1 (b) Section 209.0063, Property Code, as added by this Act,
2 applies only to a payment received by a property owners'
3 association on or after the effective date of this Act. A payment
4 received by a property owners' association before the effective
5 date of this Act is governed by the law in effect immediately before
6 the effective date of this Act, and that law is continued in effect
7 for that purpose.

8 (c) Section 209.0091, Property Code, as added by this Act,
9 applies only to a notice of sale given under Section 51.002,
10 Property Code, on or after the effective date of this Act or a
11 judicial foreclosure action commenced on or after the effective
12 date of this Act.

13 (d) Section 209.0092, Property Code, as added by this Act,
14 applies only to a foreclosure sale conducted on or after the
15 effective date of this Act. A foreclosure sale conducted before the
16 effective date of this Act is governed by the law in effect
17 immediately before the effective date of this Act, and that law is
18 continued in effect for that purpose.

19 (e) Section 209.0094, Property Code, as added by this Act,
20 applies only to an instrument filed on or after January 1, 2012. An
21 instrument filed before January 1, 2012, is governed by the law in
22 effect on the date the instrument was filed, and that law is
23 continued in effect for that purpose.

24 SECTION 4. Not later than January 1, 2012, the Supreme Court
25 of Texas shall adopt rules of civil procedure under Section
26 209.0092, Property Code, as added by this Act.

27 SECTION 5. (a) Except as provided by Subsection (b) of

1 this section, this Act takes effect January 1, 2012.

2 (b) Subsection (b), Section 209.0092, Property Code, as
3 added by this Act, takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1228 was passed by the House on May 11, 2011, by the following vote: Yeas 142, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1228 on May 26, 2011, by the following vote: Yeas 133, Nays 7, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1228 was passed by the Senate, with amendments, on May 23, 2011, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to regulation by a property owners' association of certain religious displays.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.018 to read as follows:

Sec. 202.018. REGULATION OF DISPLAY OF CERTAIN RELIGIOUS ITEMS. (a) Except as otherwise provided by this section, a property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner or resident from displaying or affixing on the entry to the owner's or resident's dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief.

(b) This section does not prohibit the enforcement or adoption of a covenant that, to the extent allowed by the constitution of this state and the United States, prohibits the display or affixing of a religious item on the entry to the owner's or resident's dwelling that:

(1) threatens the public health or safety;

(2) violates a law;

(3) contains language, graphics, or any display that is patently offensive to a passerby;

(4) is in a location other than the entry door or door frame or extends past the outer edge of the door frame of the

1 owner's or resident's dwelling; or
2 (5) individually or in combination with each other
3 religious item displayed or affixed on the entry door or door frame
4 has a total size of greater than 25 square inches.

5 (c) Except as otherwise provided by this section, this
6 section does not authorize an owner or resident to use a material or
7 color for an entry door or door frame of the owner's or resident's
8 dwelling or make an alteration to the entry door or door frame that
9 is not authorized by the restrictive covenants governing the
10 dwelling.

11 (d) A property owners' association may remove an item
12 displayed in violation of a restrictive covenant permitted by this
13 section.

14 SECTION 2. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1278 was passed by the House on May 6, 2011, by the following vote: Yeas 129, Nays 4, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1278 on May 23, 2011, by the following vote: Yeas 144, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1278 was passed by the Senate, with amendments, on May 21, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to the installation of a speed feedback sign by a property owners' association.

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

SECTION 1. Chapter 430, Transportation Code, is amended by adding Section 430.002 to read as follows:

Sec. 430.002. SPEED FEEDBACK SIGNS ERECTED BY NEIGHBORHOOD ASSOCIATION. (a) In this section, "property owners' association" means an association described by Section 204.004, Property Code.

(b) A property owners' association may install a speed feedback sign on a road, highway, or street in the association's jurisdiction if:

(1) the association receives the consent of the governing body of the political subdivision that maintains the road, highway, or street for the placement of the sign; and

(2) the association pays for the installation of the sign.

(c) A property owners' association that installs a speed feedback sign under this section is responsible for the maintenance of the sign.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this

H.B. No. 1737

1 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1737 was passed by the House on April 26, 2011, by the following vote: Yeas 148, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1737 was passed by the Senate on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to certain information or guidelines provided by or concerning a property owners' association or concerning subdivisions that are subject to restrictive covenants.

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

SECTION 1. Section 5.012, Property Code, is amended by amending Subsection (a) and adding Subsections (a-1), (f), and (g) to read as follows:

(a) A seller of residential real property that is subject to membership in a property owners' association and that comprises not more than one dwelling unit located in this state shall give to the purchaser of the property a written notice that reads substantially similar to the following:

NOTICE OF MEMBERSHIP IN PROPERTY OWNERS' ASSOCIATION CONCERNING THE PROPERTY AT (street address) (name of residential community)

As a purchaser of property in the residential community in which this property is located, you are obligated to be a member of a property owners' association. Restrictive covenants governing the use and occupancy of the property and all [~~a~~] dedicatory instruments [~~instrument~~] governing the establishment, maintenance, or [~~and~~] operation of this residential community have been or will be recorded in the Real Property Records of the county in which the property is located. Copies of the restrictive covenants and dedicatory instruments [~~instrument~~] may be obtained from the county

1 60th day before the date the resale certificate is delivered to the
2 purchaser and reflects any special assessments approved before and
3 due after the resale certificate is delivered. If a resale
4 certificate that meets the requirements of this subsection has not
5 been issued for the property, the seller shall request the
6 association or its agent to issue a resale certificate under
7 Chapter 207, and the association or its agent shall promptly
8 prepare and deliver a copy of the resale certificate to the
9 purchaser.

10 (g) The purchaser shall pay the fee to the property owners'
11 association or its agent for issuing the resale certificate unless
12 otherwise agreed by the purchaser and seller of the property. The
13 property owners' association may require payment before beginning
14 the process of providing a resale certificate requested under
15 Chapter 207 but may not process a payment for a resale certificate
16 until the certificate is available for delivery. The association
17 may not charge a fee if the certificate is not provided in the time
18 prescribed by Section 207.003(a).

19 SECTION 2. Subdivision (1), Section 202.001, Property Code,
20 is amended to read as follows:

21 (1) "Dedictory instrument" means each document
22 governing [~~instrument covering~~] the establishment, maintenance, or
23 [~~and~~] operation of a residential subdivision, planned unit
24 development, condominium or townhouse regime, or any similar
25 planned development. The term includes a declaration or similar
26 instrument subjecting real property to:

27 (A) restrictive covenants, bylaws, or similar

1 instruments governing the administration or operation of a property
2 owners' association;

3 (B)~~[, to]~~ properly adopted rules and regulations
4 of the property owners' association; or

5 (C)~~[, or to]~~ all lawful amendments to the
6 covenants, bylaws, instruments, rules, or regulations.

7 SECTION 3. Section 202.006, Property Code, is amended to
8 read as follows:

9 Sec. 202.006. PUBLIC RECORDS. (a) A property owners'
10 association shall file all ~~[the]~~ dedicatory instruments
11 ~~[instrument]~~ in the real property records of each county in which
12 the property to which the dedicatory instruments relate ~~[instrument~~
13 ~~relates]~~ is located.

14 (b) A dedicatory instrument has no effect until the
15 instrument is filed in accordance with this section.

16 SECTION 4. Section 207.003, Property Code, is amended by
17 amending Subsections (a), (b), and (f) and adding Subsections (a-1)
18 and (c-1) to read as follows:

19 (a) Not later than the 10th business day after the date a
20 written request for subdivision information is received from an
21 owner or the~~[r]~~ owner's agent, a purchaser of property in a
22 subdivision or the purchaser's agent, or a title insurance company
23 or its agent acting on behalf of the owner or purchaser and the
24 evidence of the requestor's authority to order a resale certificate
25 under Subsection (a-1) is received and verified, the property
26 owners' association shall deliver to the owner or the~~[r]~~ owner's
27 agent, the purchaser or the purchaser's agent, or the title

1 insurance company or its agent:

2 (1) a current copy of the restrictions applying to the
3 subdivision;

4 (2) a current copy of the bylaws and rules of the
5 property owners' association; and

6 (3) a resale certificate prepared not earlier than the
7 60th day before the date the certificate is delivered that complies
8 with Subsection (b).

9 (a-1) For a request from a purchaser of property in a
10 subdivision or the purchaser's agent, the property owners'
11 association may require the purchaser or purchaser's agent to
12 provide to the association, before the association begins the
13 process of preparing or delivers the items listed in Subsection
14 (a), reasonable evidence that the purchaser has a contractual or
15 other right to acquire property in the subdivision.

16 (b) A resale certificate under Subsection (a) must contain:

17 (1) a statement of any right of first refusal, other
18 than a right of first refusal that is prohibited by statute, and any
19 [or] other restraint contained in the restrictions or restrictive
20 covenants that restricts the owner's right to transfer the owner's
21 property;

22 (2) the frequency and amount of any regular
23 assessments;

24 (3) the amount and purpose of any special assessment
25 that has been approved before and is due after [~~the date~~] the resale
26 certificate is delivered [~~prepared~~];

27 (4) the total of all amounts due and unpaid to the

1 property owners' association that are attributable to the owner's
2 property;

3 (5) capital expenditures, if any, approved by the
4 property owners' association for the property owners' association's
5 current fiscal year;

6 (6) the amount of reserves, if any, for capital
7 expenditures;

8 (7) the property owners' association's current
9 operating budget and balance sheet;

10 (8) the total of any unsatisfied judgments against the
11 property owners' association;

12 (9) the style and cause number of any pending lawsuit
13 in which the property owners' association is a party, other than a
14 lawsuit relating to unpaid ad valorem taxes of an individual member
15 of the association [~~defendant~~];

16 (10) a copy of a certificate of insurance showing the
17 property owners' association's property and liability insurance
18 relating to the common areas and common facilities;

19 (11) a description of any conditions on the owner's
20 property that the property owners' association board has actual
21 knowledge are in violation of the restrictions applying to the
22 subdivision or the bylaws or rules of the property owners'
23 association;

24 (12) a summary or copy of notices received by the
25 property owners' association from any governmental authority
26 regarding health or housing code violations existing on the
27 preparation date of the certificate relating to the owner's

1 property or any common areas or common facilities owned or leased by
2 the property owners' association;

3 (13) the amount of any administrative transfer fee
4 charged by the property owners' association for a change of
5 ownership of property in the subdivision;

6 (14) the name, mailing address, and telephone number
7 of the property owners' association's managing agent, if any; ~~and~~

8 (15) a statement indicating whether the restrictions
9 allow foreclosure of a property owners' association's lien on the
10 owner's property for failure to pay assessments; and

11 (16) a statement of all fees associated with the
12 transfer of ownership, including a description of each fee, to whom
13 each fee is paid, and the amount of each fee.

14 (c-1) The property owners' association may require payment
15 before beginning the process of providing a resale certificate but
16 may not process a payment for a resale certificate until the
17 certificate is available for delivery. The association may not
18 charge a fee if the certificate is not provided in the time
19 prescribed by Subsection (a).

20 (f) Not later than the seventh business day after the date a
21 written request for an update of ~~to~~ a resale certificate
22 delivered under Subsection (a) is received from an owner, owner's
23 agent, or title insurance company or its agent acting on behalf of
24 the owner, the property owners' association shall deliver to the
25 owner, owner's agent, or title insurance company or its agent an
26 updated resale certificate that contains the following
27 information:

1 (1) if a right of first refusal or other restraint on
2 sale is contained in the restrictions, a statement of whether the
3 property owners' association waives the restraint on sale;

4 (2) the status of any unpaid special assessments,
5 dues, or other payments attributable to the owner's property; and

6 (3) any changes to the information provided in the
7 resale certificate issued under Subsection (a).

8 SECTION 5. Chapter 207, Property Code, is amended by adding
9 Section 207.006 to read as follows:

10 Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. A
11 property owners' association shall make dedicatory instruments
12 relating to the association or subdivision and filed in the county
13 deed records available on a website if the association has, or a
14 management company on behalf of the association maintains, a
15 publicly accessible website.

16 SECTION 6. Section 209.003, Property Code, is amended by
17 adding Subsection (e) to read as follows:

18 (e) Section 209.0062 does not apply to a property owners'
19 association that is a mixed-use master association that existed
20 before January 1, 1974, and that does not have the authority under a
21 dedicatory instrument or other governing document to impose fines.

22 SECTION 7. Chapter 209, Property Code, is amended by adding
23 Section 209.0062 to read as follows:

24 Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN
25 ASSESSMENTS. (a) A property owners' association shall file the
26 association's alternative payment schedule guidelines adopted
27 under this section in the real property records of each county in

1 which the subdivision is located.

2 (b) A property owners' association composed of more than 14
3 lots shall adopt reasonable guidelines to establish an alternative
4 payment schedule by which an owner may make partial payments to the
5 property owners' association for delinquent regular or special
6 assessments or any other amount owed to the association without
7 accruing additional monetary penalties. For purposes of this
8 section, monetary penalties do not include reasonable costs
9 associated with administering the payment plan or interest.

10 (c) The minimum term for a payment plan offered by a
11 property owners' association is three months.

12 (d) A property owners' association may not allow a payment
13 plan for any amount that extends more than 18 months from the date
14 of the owner's request for a payment plan. The association is not
15 required to enter into a payment plan with an owner who failed to
16 honor the terms of a previous payment plan during the two years
17 following the owner's default under the previous payment plan.

18 (e) A property owners' association's failure to file as
19 required by this section the association's guidelines in the real
20 property records of each county in which the subdivision is located
21 does not prohibit a property owner from receiving an alternative
22 payment schedule by which the owner may make partial payments to the
23 property owners' association for delinquent regular or special
24 assessments or any other amount owed to the association without
25 accruing additional monetary penalties, as defined by Subsection
26 (b).

27 SECTION 8. (a) Section 5.012, Property Code, as amended by

1 this Act, applies only to a sale of property that occurs on or after
2 the effective date of this Act. For the purposes of this
3 subsection, a sale of property occurs before the effective date of
4 this Act if the executory contract binding the purchaser to
5 purchase the property is executed before that date. A sale of
6 property that occurs before the effective date of this Act is
7 governed by the law in effect immediately before that date, and that
8 law is continued in effect for that purpose.

9 (b) Section 202.006, Property Code, as amended by this Act,
10 applies to a provision in a dedicatory instrument or a restrictive
11 covenant enacted before, on, or after the effective date of this
12 Act, except that any action taken before the effective date of this
13 Act based on an unfiled dedicatory instrument is not invalidated by
14 Section 202.006, Property Code, as amended by this Act.

15 (c) Section 207.003, Property Code, as amended by this Act,
16 applies only to a request for information received by a property
17 owners' association on or after the effective date of this Act. A
18 request for information received by a property owners' association
19 before the effective date of this Act is governed by the law in
20 effect immediately before the effective date of this Act, and that
21 law is continued in effect for that purpose.

22 (d) Section 209.0062, Property Code, as added by this Act,
23 applies only to an assessment or other debt that becomes due on or
24 after the effective date of this Act. An assessment or other debt
25 that becomes due before the effective date of this Act is governed
26 by the law in effect immediately before the effective date of this
27 Act, and that law is continued in effect for that purpose.

1 SECTION 9. Not later than January 1, 2012, each property
2 owners' association shall present for recording with the county
3 clerk as prescribed by Section 202.006, Property Code, as amended
4 by this Act, each dedicatory instrument governing the association
5 that has not been previously recorded in the real property records
6 of the county.

7 SECTION 10. This Act takes effect January 1, 2012.

President of the Senate

Speaker of the House

I certify that H.B. No. 1821 was passed by the House on May 5, 2011, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1821 on May 25, 2011, by the following vote: Yeas 139, Nays 4, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1821 was passed by the Senate, with amendments, on May 23, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to the application of statutes that classify political subdivisions according to population.

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

SECTION 1. Section 147.003(a), Agriculture Code, is amended to read as follows:

(a) A person pursuing the business of selling mules, horses, jacks, or jennets in a county with a population of not less than 1.8 [~~1.4~~] million nor more than 1.9 [~~1.5~~] million is not subject to this chapter as a livestock auction commission merchant.

SECTION 2. Section 109.57(e), Alcoholic Beverage Code, is amended to read as follows:

(e) A municipality located in a county that has a population of 2.2 million or more and that is adjacent to a county with a population of more than 600,000 [~~400,000~~] or a municipality located in a county with a population of 600,000 [~~400,000~~] or more and that is adjacent to a county with a population of 2.2 million or more may regulate, in a manner not otherwise prohibited by law, the location of an establishment issued a permit under Chapter 32 or 33 if:

(1) the establishment derives 35 percent or more of the establishment's gross revenue from the on-premises sale or service of alcoholic beverages and the premises of the establishment are located in a dry area; and

(2) the permit is not issued to a fraternal or veterans

1 located in a national forest; or [~~and~~]

2 (3) adjacent to a county described by Subdivision (2)
3 that has a population of less than 75,000.

4 SECTION 109. Section 201.001(a), Property Code, is amended
5 to read as follows:

6 (a) This chapter applies to a residential real estate
7 subdivision that is located in whole or in part:

8 (1) within a city that has a population of more than
9 100,000, or within the extraterritorial jurisdiction of such a
10 city;

11 (2) in the unincorporated area of:

12 (A) a county having a population of 3.3 million
13 [~~2,400,000~~] or more; or

14 (B) a county having a population of 40,000
15 [~~30,000~~] or more that is adjacent to a county having a population of
16 3.3 million [~~2,400,000~~] or more; or

17 (3) in the incorporated area of a county having a
18 population of 40,000 [~~30,000~~] or more that is adjacent to a county
19 having a population of 3.3 million [~~2,400,000~~] or more.

20 SECTION 110. Section 204.002(a), Property Code, is amended
21 to read as follows:

22 (a) This chapter applies only to a residential real estate
23 subdivision, excluding a condominium development governed by Title
24 7, Property Code, that is located in whole or in part:

25 (1) in a county with a population of 3.3 [~~2.8~~] million
26 or more;

27 (2) in a county with a population of not less than

1 285,000 and not [250,000 or] more than 300,000 that is adjacent to
2 the Gulf of Mexico and that is adjacent to a county having a
3 population of 3.3 [2.8] million or more; or

4 (3) in a county with a population of 275,000 or more
5 that:

6 (A) is adjacent to a county with a population of
7 3.3 million or more; and

8 (B) contains part of a national forest.

9 SECTION 111. Section 210.002, Property Code, is amended to
10 read as follows:

11 Sec. 210.002. APPLICABILITY OF CHAPTER. This chapter
12 applies to a residential real estate subdivision that is located in
13 a county with a population of:

14 (1) more than 200,000 [170,000] and less than 220,000
15 [175,000]; or

16 (2) more than 45,000 and less than 80,000 [75,000]
17 that is adjacent to a county with a population of more than 200,000
18 [170,000] and less than 220,000 [175,000].

19 SECTION 112. Section 6.41(d-1), Tax Code, is amended to
20 read as follows:

21 (d-1) In a county with a population of 3.3 million or more or
22 a county with a population of 550,000 [350,000] or more that is
23 adjacent to a county with a population of 3.3 million or more the
24 members of the board are appointed by the local administrative
25 district judge in the county in which the appraisal district is
26 established.

27 SECTION 113. Section 11.18(p), Tax Code, as added by

1 Galveston County [~~a county that:~~
2 ~~(1) has a population of more than 245,000;~~
3 ~~(2) borders on the Gulf of Mexico; and~~
4 ~~(3) is adjacent to a county with a population of more~~
5 ~~than 1.6 million]~~.

6 SECTION 201. (a) This Act is not intended to revive a law
7 that was impliedly repealed by a law enacted by the 81st Legislature
8 or a previous legislature.

9 (b) To the extent that a law enacted by the 82nd
10 Legislature, Regular Session, 2011, conflicts with this Act, the
11 other law prevails, regardless of the relative dates of enactment
12 or the relative effective dates.

13 SECTION 202. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 2702 was passed by the House on May 11, 2011, by the following vote: Yeas 149, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2702 on May 27, 2011, by the following vote: Yeas 140, Nays 2, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2702 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to meetings, elections, and records of certain property owners' associations.

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

SECTION 1. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) The following provisions of this chapter do not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines:

(1) Section 209.005(c);

(2) Section 209.0056;

(3) Section 209.0057;

(4) Section 209.0058; and

(5) Section 209.00592.

SECTION 2. Section 209.005, Property Code, is amended to read as follows:

Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided by Subsection (b), this section applies to all property owners' associations and controls over other law not specifically applicable to a property owners' association.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by

1 application of Section 552.0036, Government Code.

2 (c) Notwithstanding a provision in a dedicatory instrument,
 3 a [A] property owners' association shall make the books and records
 4 of the association, including financial records, open to and
 5 reasonably available for examination by [to] an owner, or a person
 6 designated in a writing signed by the owner as the owner's agent,
 7 attorney, or certified public accountant, in accordance with this
 8 section. An owner is entitled to obtain from the association copies
 9 of information contained in the books and records [Section B,
 10 Article 2.23, Texas Non-Profit Corporation Act (Article 1396-2.23,
 11 Vernon's Texas Civil Statutes)].

12 (d) Except as provided by this subsection, an [(a-1) A
 13 property owners' association described by Section 552.0036(2),
 14 Government Code, shall make the books and records of the
 15 association, including financial records, reasonably available to
 16 any person requesting access to the books or records in accordance
 17 with Chapter 552, Government Code. Subsection (a) does not apply to
 18 a property owners' association to which this subsection applies.

19 [(b) An] attorney's files and records relating to the
 20 property owners' association, excluding invoices requested by an
 21 owner under Section 209.008(d), are not[+]

22 [(1)] records of the association and are not[+]

23 [(2)] subject to inspection by the owner[+] or

24 [(3) subject to] production in a legal proceeding. If

25 a document in an attorney's files and records relating to the

26 association would be responsive to a legally authorized request to

27 inspect or copy association documents, the document shall be

1 produced by using the copy from the attorney's files and records if
2 the association has not maintained a separate copy of the document.
3 This subsection does not require production of a document that
4 constitutes attorney work product or that is privileged as an
5 attorney-client communication.

6 (e) An owner or the owner's authorized representative
7 described by Subsection (c) must submit a written request for
8 access or information under Subsection (c) by certified mail, with
9 sufficient detail describing the property owners' association's
10 books and records requested, to the mailing address of the
11 association or authorized representative as reflected on the most
12 current management certificate filed under Section 209.004. The
13 request must contain an election either to inspect the books and
14 records before obtaining copies or to have the property owners'
15 association forward copies of the requested books and records and:

16 (1) if an inspection is requested, the association, on
17 or before the 10th business day after the date the association
18 receives the request, shall send written notice of dates during
19 normal business hours that the owner may inspect the requested
20 books and records to the extent those books and records are in the
21 possession, custody, or control of the association; or

22 (2) if copies of identified books and records are
23 requested, the association shall, to the extent those books and
24 records are in the possession, custody, or control of the
25 association, produce the requested books and records for the
26 requesting party on or before the 10th business day after the date
27 the association receives the request, except as otherwise provided

1 by this section.

2 (f) If the property owners' association is unable to produce
3 the books or records requested under Subsection (e) on or before the
4 10th business day after the date the association receives the
5 request, the association must provide to the requestor written
6 notice that:

7 (1) informs the requestor that the association is
8 unable to produce the information on or before the 10th business day
9 after the date the association received the request; and

10 (2) states a date by which the information will be sent
11 or made available for inspection to the requesting party that is not
12 later than the 15th business day after the date notice under this
13 subsection is given.

14 (g) If an inspection is requested or required, the
15 inspection shall take place at a mutually agreed on time during
16 normal business hours, and the requesting party shall identify the
17 books and records for the property owners' association to copy and
18 forward to the requesting party.

19 (h) A property owners' association may produce books and
20 records requested under this section in hard copy, electronic, or
21 other format reasonably available to the association.

22 (i) A property owners' association board must adopt a
23 records production and copying policy that prescribes the costs the
24 association will charge for the compilation, production, and
25 reproduction of information requested under this section. The
26 prescribed charges may include all reasonable costs of materials,
27 labor, and overhead but may not exceed costs that would be

1 applicable for an item under 1 T.A.C. Section 70.3. The policy
2 required by this subsection must be recorded as a dedicatory
3 instrument in accordance with Section 202.006. An association may
4 not charge an owner for the compilation, production, or
5 reproduction of information requested under this section unless the
6 policy prescribing those costs has been recorded as required by
7 this subsection. An owner is responsible for costs related to the
8 compilation, production, and reproduction of the requested
9 information in the amounts prescribed by the policy adopted under
10 this subsection. The association may require advance payment of
11 the estimated costs of compilation, production, and reproduction of
12 the requested information. If the estimated costs are lesser or
13 greater than the actual costs, the association shall submit a final
14 invoice to the owner on or before the 30th business day after the
15 date the information is delivered. If the final invoice includes
16 additional amounts due from the owner, the additional amounts, if
17 not reimbursed to the association before the 30th business day
18 after the date the invoice is sent to the owner, may be added to the
19 owner's account as an assessment. If the estimated costs exceeded
20 the final invoice amount, the owner is entitled to a refund, and the
21 refund shall be issued to the owner not later than the 30th business
22 day after the date the invoice is sent to the owner.

23 (j) A property owners' association must estimate costs
24 under this section using amounts prescribed by the policy adopted
25 under Subsection (i).

26 (k) Except as provided by Subsection (l) and to the extent
27 the information is provided in the meeting minutes, the property

1 owners' association is not required to release or allow inspection
2 of any books or records that identify the dedicatory instrument
3 violation history of an individual owner of an association, an
4 owner's personal financial information, including records of
5 payment or nonpayment of amounts due the association, an owner's
6 contact information, other than the owner's address, or information
7 related to an employee of the association, including personnel
8 files. Information may be released in an aggregate or summary
9 manner that would not identify an individual property owner.

10 (1) The books and records described by Subsection (k) shall
11 be released or made available for inspection if:

12 (1) the express written approval of the owner whose
13 records are the subject of the request for inspection is provided to
14 the property owners' association; or

15 (2) a court orders the release of the books and records
16 or orders that the books and records be made available for
17 inspection.

18 (m) A property owners' association composed of more than 14
19 lots shall adopt and comply with a document retention policy that
20 includes, at a minimum, the following requirements:

21 (1) certificates of formation, bylaws, restrictive
22 covenants, and all amendments to the certificates of formation,
23 bylaws, and covenants shall be retained permanently;

24 (2) financial books and records shall be retained for
25 seven years;

26 (3) account records of current owners shall be
27 retained for five years;

1 (4) contracts with a term of one year or more shall be
2 retained for four years after the expiration of the contract term;

3 (5) minutes of meetings of the owners and the board
4 shall be retained for seven years; and

5 (6) tax returns and audit records shall be retained
6 for seven years.

7 (n) A member of a property owners' association who is denied
8 access to or copies of association books or records to which the
9 member is entitled under this section may file a petition with the
10 justice of the peace of a justice precinct in which all or part of
11 the property that is governed by the association is located
12 requesting relief in accordance with this subsection. If the
13 justice of the peace finds that the member is entitled to access to
14 or copies of the records, the justice of the peace may grant one or
15 more of the following remedies:

16 (1) a judgment ordering the property owners'
17 association to release or allow access to the books or records;

18 (2) a judgment against the property owners'
19 association for court costs and attorney's fees incurred in
20 connection with seeking a remedy under this section; or

21 (3) a judgment authorizing the owner or the owner's
22 assignee to deduct the amounts awarded under Subdivision (2) from
23 any future regular or special assessments payable to the property
24 owners' association.

25 (o) If the property owners' association prevails in an
26 action under Subsection (n), the association is entitled to a
27 judgment for court costs and attorney's fees incurred by the

1 association in connection with the action.

2 (p) On or before the 10th business day before the date a
3 person brings an action against a property owners' association
4 under this section, the person must send written notice to the
5 association of the person's intent to bring the action. The notice
6 must:

7 (1) be sent certified mail, return receipt requested,
8 or delivered by the United States Postal Service with signature
9 confirmation service to the mailing address of the association or
10 authorized representative as reflected on the most current
11 management certificate filed under Section 209.004; and

12 (2) describe with sufficient detail the books and
13 records being requested.

14 (q) For the purposes of this section, "business day" means a
15 day other than Saturday, Sunday, or a state or federal holiday.

16 SECTION 3. Chapter 209, Property Code, is amended by adding
17 Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059,
18 209.00591, 209.00592, and 209.00593 to read as follows:

19 Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does
20 not apply to a property owners' association that is subject to
21 Chapter 551, Government Code, by application of Section 551.0015,
22 Government Code.

23 (b) In this section:

24 (1) "Board meeting":

25 (A) means a deliberation between a quorum of the
26 voting board of the property owners' association, or between a
27 quorum of the voting board and another person, during which

1 property owners' association business is considered and the board
2 takes formal action; and

3 (B) does not include the gathering of a quorum of
4 the board at a social function unrelated to the business of the
5 association or the attendance by a quorum of the board at a
6 regional, state, or national convention, ceremonial event, or press
7 conference, if formal action is not taken and any discussion of
8 association business is incidental to the social function,
9 convention, ceremonial event, or press conference.

10 (2) "Development period" means a period stated in a
11 declaration during which a declarant reserves:

12 (A) a right to facilitate the development,
13 construction, and marketing of the subdivision; and

14 (B) a right to direct the size, shape, and
15 composition of the subdivision.

16 (c) Regular and special board meetings must be open to
17 owners, subject to the right of the board to adjourn a board meeting
18 and reconvene in closed executive session to consider actions
19 involving personnel, pending or threatened litigation, contract
20 negotiations, enforcement actions, confidential communications
21 with the property owners' association's attorney, matters involving
22 the invasion of privacy of individual owners, or matters that are to
23 remain confidential by request of the affected parties and
24 agreement of the board. Following an executive session, any
25 decision made in the executive session must be summarized orally
26 and placed in the minutes, in general terms, without breaching the
27 privacy of individual owners, violating any privilege, or

1 disclosing information that was to remain confidential at the
2 request of the affected parties. The oral summary must include a
3 general explanation of expenditures approved in executive session.

4 (c-1) Except for a meeting held by electronic or telephonic
5 means under Subsection (h), a board meeting must be held in a county
6 in which all or part of the property in the subdivision is located
7 or in a county adjacent to that county.

8 (d) The board shall keep a record of each regular or special
9 board meeting in the form of written minutes of the meeting. The
10 board shall make meeting records, including approved minutes,
11 available to a member for inspection and copying on the member's
12 written request to the property owners' association's managing
13 agent at the address appearing on the most recently filed
14 management certificate or, if there is not a managing agent, to the
15 board.

16 (e) Members shall be given notice of the date, hour, place,
17 and general subject of a regular or special board meeting,
18 including a general description of any matter to be brought up for
19 deliberation in executive session. The notice shall be:

20 (1) mailed to each property owner not later than the
21 10th day or earlier than the 60th day before the date of the
22 meeting; or

23 (2) provided at least 72 hours before the start of the
24 meeting by:

25 (A) posting the notice in a conspicuous manner
26 reasonably designed to provide notice to property owners'
27 association members:

1 (i) in a place located on the association's
2 common property or, with the property owner's consent, on other
3 conspicuously located privately owned property within the
4 subdivision; or

5 (ii) on any Internet website maintained by
6 the association or other Internet media; and

7 (B) sending the notice by e-mail to each owner
8 who has registered an e-mail address with the association.

9 (f) It is an owner's duty to keep an updated e-mail address
10 registered with the property owners' association under Subsection
11 (e)(2)(B).

12 (g) If the board recesses a regular or special board meeting
13 to continue the following regular business day, the board is not
14 required to post notice of the continued meeting if the recess is
15 taken in good faith and not to circumvent this section. If a
16 regular or special board meeting is continued to the following
17 regular business day, and on that following day the board continues
18 the meeting to another day, the board shall give notice of the
19 continuation in at least one manner prescribed by Subsection
20 (e)(2)(A) within two hours after adjourning the meeting being
21 continued.

22 (h) A board may meet by any method of communication,
23 including electronic and telephonic, without prior notice to owners
24 under Subsection (e), if each director may hear and be heard by
25 every other director, or the board may take action by unanimous
26 written consent to consider routine and administrative matters or a
27 reasonably unforeseen emergency or urgent necessity that requires

1 immediate board action. Any action taken without notice to owners
2 under Subsection (e) must be summarized orally, including an
3 explanation of any known actual or estimated expenditures approved
4 at the meeting, and documented in the minutes of the next regular or
5 special board meeting. The board may not, without prior notice to
6 owners under Subsection (e), consider or vote on:

7 (1) fines;

8 (2) damage assessments;

9 (3) initiation of foreclosure actions;

10 (4) initiation of enforcement actions, excluding
11 temporary restraining orders or violations involving a threat to
12 health or safety;

13 (5) increases in assessments;

14 (6) levying of special assessments;

15 (7) appeals from a denial of architectural control
16 approval; or

17 (8) a suspension of a right of a particular owner
18 before the owner has an opportunity to attend a board meeting to
19 present the owner's position, including any defense, on the issue.

20 (i) This section applies to a meeting of a property owners'
21 association board during the development period only if the meeting
22 is conducted for the purpose of:

23 (1) adopting or amending the governing documents,
24 including declarations, bylaws, rules, and regulations of the
25 association;

26 (2) increasing the amount of regular assessments of
27 the association or adopting or increasing a special assessment;

1 (3) electing non-developer board members of the
2 association or establishing a process by which those members are
3 elected; or

4 (4) changing the voting rights of members of the
5 association.

6 Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE. (a)
7 Not later than the 10th day or earlier than the 60th day before the
8 date of an election or vote, a property owners' association shall
9 give written notice of the election or vote to:

10 (1) each owner of property in the property owners'
11 association, for purposes of an association-wide election or vote;
12 or

13 (2) each owner of property in the property owners'
14 association entitled under the dedicatory instruments to vote in a
15 particular representative election, for purposes of a vote that
16 involves election of representatives of the association who are
17 vested under the dedicatory instruments of the property owners'
18 association with the authority to elect or appoint board members of
19 the property owners' association.

20 (b) This section supersedes any contrary requirement in a
21 dedicatory instrument.

22 (c) This section does not apply to a property owners'
23 association that is subject to Chapter 552, Government Code, by
24 application of Section 552.0036, Government Code.

25 Sec. 209.0057. RECOUNT OF VOTES. (a) This section does
26 not apply to a property owners' association that is subject to
27 Chapter 552, Government Code, by application of Section 552.0036,

1 Government Code.

2 (b) Any owner may, not later than the 15th day after the date
3 of the meeting at which the election was held, require a recount of
4 the votes. A demand for a recount must be submitted in writing
5 either:

6 (1) by certified mail, return receipt requested, or by
7 delivery by the United States Postal Service with signature
8 confirmation service to the property owners' association's mailing
9 address as reflected on the latest management certificate filed
10 under Section 209.004; or

11 (2) in person to the property owners' association's
12 managing agent as reflected on the latest management certificate
13 filed under Section 209.004 or to the address to which absentee and
14 proxy ballots are mailed.

15 (c) The property owners' association shall, at the expense
16 of the owner requesting the recount, retain for the purpose of
17 performing the recount, the services of a person qualified to
18 tabulate votes under this subsection. The association shall enter
19 into a contract for the services of a person who:

20 (1) is not a member of the association or related to a
21 member of the association board within the third degree by
22 consanguinity or affinity, as determined under Chapter 573,
23 Government Code; and

24 (2) is:

25 (A) a current or former:

26 (i) county judge;

27 (ii) county elections administrator;

1 (iii) justice of the peace; or

2 (iv) county voter registrar; or

3 (B) a person agreed on by the association and the
4 persons requesting the recount.

5 (d) Any recount under Subsection (b) must be performed on or
6 before the 30th day after the date of receipt of a request and
7 payment for a recount in accordance with Subsections (b) and (c).
8 If the recount changes the results of the election, the property
9 owners' association shall reimburse the requesting owner for the
10 cost of the recount. The property owners' association shall
11 provide the results of the recount to each owner who requested the
12 recount. Any action taken by the board in the period between the
13 initial election vote tally and the completion of the recount is not
14 affected by any recount.

15 Sec. 209.0058. BALLOTS. (a) Any vote cast in an election
16 or vote by a member of a property owners' association must be in
17 writing and signed by the member.

18 (b) Electronic votes cast under Section 209.00592
19 constitute written and signed ballots.

20 (c) In an association-wide election, written and signed
21 ballots are not required for uncontested races.

22 Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a
23 dedicatory instrument that would disqualify a property owner from
24 voting in a property owners' association election of board members
25 or on any matter concerning the rights or responsibilities of the
26 owner is void.

27 (b) This section does not apply to a property owners'

1 association that is subject to Chapter 552, Government Code, by
2 application of Section 552.0036, Government Code.

3 Sec. 209.00591. BOARD MEMBERSHIP. (a) Except as provided
4 by this section, a provision in a dedicatory instrument that
5 restricts a property owner's right to run for a position on the
6 board of the property owners' association is void.

7 (b) If a board is presented with written, documented
8 evidence from a database or other record maintained by a
9 governmental law enforcement authority that a board member has been
10 convicted of a felony or crime involving moral turpitude, the board
11 member is immediately ineligible to serve on the board of the
12 property owners' association, automatically considered removed
13 from the board, and prohibited from future service on the board.

14 (c) The declaration may provide for a period of declarant
15 control of the association during which a declarant, or persons
16 designated by the declarant, may appoint and remove board members
17 and the officers of the association, other than board members or
18 officers elected by members of the property owners' association.
19 Regardless of the period of declarant control provided by the
20 declaration, on or before the 120th day after the date 75 percent of
21 the lots that may be created and made subject to the declaration are
22 conveyed to owners other than a declarant, at least one-third of the
23 board members must be elected by owners other than the declarant.
24 If the declaration does not include the number of lots that may be
25 created and made subject to the declaration, at least one-third of
26 the board members must be elected by owners other than the declarant
27 not later than the 10th anniversary of the date the declaration was

1 recorded.

2 Sec. 209.00592. VOTING; QUORUM. (a) The voting rights of
3 an owner may be cast or given:

4 (1) in person or by proxy at a meeting of the property
5 owners' association;

6 (2) by absentee ballot in accordance with this
7 section;

8 (3) by electronic ballot in accordance with this
9 section; or

10 (4) by any method of representative or delegated
11 voting provided by a dedicatory instrument.

12 (b) An absentee or electronic ballot:

13 (1) may be counted as an owner present and voting for
14 the purpose of establishing a quorum only for items appearing on the
15 ballot;

16 (2) may not be counted, even if properly delivered, if
17 the owner attends any meeting to vote in person, so that any vote
18 cast at a meeting by a property owner supersedes any vote submitted
19 by absentee or electronic ballot previously submitted for that
20 proposal; and

21 (3) may not be counted on the final vote of a proposal
22 if the motion was amended at the meeting to be different from the
23 exact language on the absentee or electronic ballot.

24 (c) A solicitation for votes by absentee ballot must
25 include:

26 (1) an absentee ballot that contains each proposed
27 action and provides an opportunity to vote for or against each

1 proposed action;

2 (2) instructions for delivery of the completed
3 absentee ballot, including the delivery location; and

4 (3) the following language: "By casting your vote via
5 absentee ballot you will forgo the opportunity to consider and vote
6 on any action from the floor on these proposals, if a meeting is
7 held. This means that if there are amendments to these proposals
8 your votes will not be counted on the final vote on these measures.
9 If you desire to retain this ability, please attend any meeting in
10 person. You may submit an absentee ballot and later choose to
11 attend any meeting in person, in which case any in-person vote will
12 prevail."

13 (d) For the purposes of this section, "electronic ballot"
14 means a ballot:

15 (1) given by:

16 (A) e-mail;

17 (B) facsimile; or

18 (C) posting on an Internet website;

19 (2) for which the identity of the property owner
20 submitting the ballot can be confirmed; and

21 (3) for which the property owner may receive a receipt
22 of the electronic transmission and receipt of the owner's ballot.

23 (e) If an electronic ballot is posted on an Internet
24 website, a notice of the posting shall be sent to each owner that
25 contains instructions on obtaining access to the posting on the
26 website.

27 (f) This section supersedes any contrary provision in a

1 dedicatory instrument.

2 (g) This section does not apply to a property owners'
3 association that is subject to Chapter 552, Government Code, by
4 application of Section 552.0036, Government Code.

5 Sec. 209.00593. ELECTION OF BOARD MEMBERS.

6 (a) Notwithstanding any provision in a dedicatory instrument, any
7 board member whose term has expired must be elected by owners who
8 are members of the property owners' association. A board member may
9 be appointed by the board only to fill a vacancy caused by a
10 resignation, death, or disability. A board member appointed to
11 fill a vacant position shall serve the unexpired term of the
12 predecessor board member.

13 (b) The board of a property owners' association may amend
14 the bylaws of the property owners' association to provide for
15 elections to be held as required by Subsection (a).

16 (c) The appointment of a board member in violation of this
17 section is void.

18 (d) This section does not apply to the appointment of a
19 board member during a development period. In this subsection,
20 "development period" means a period stated in a declaration during
21 which a declarant reserves:

22 (1) a right to facilitate the development,
23 construction, and marketing of the subdivision; and

24 (2) a right to direct the size, shape, and composition
25 of the subdivision.

26 (e) This section does not apply to a representative board
27 whose members or delegates are elected or appointed by

1 representatives of a property owners' association who are elected
2 by owner members of a property owners' association.

3 SECTION 4. Section 209.009, Property Code, is amended to
4 read as follows:

5 Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN
6 CIRCUMSTANCES. A property owners' association may not foreclose a
7 property owners' association's assessment lien if the debt securing
8 the lien consists solely of:

9 (1) fines assessed by the association; [~~or~~]

10 (2) attorney's fees incurred by the association solely
11 associated with fines assessed by the association; or

12 (3) amounts added to the owner's account as an
13 assessment under Section 209.005(i).

14 SECTION 5. Chapter 209, Property Code, is amended by adding
15 Section 209.014 to read as follows:

16 Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO
17 CALL REGULAR MEETING. (a) Notwithstanding any provision in a
18 dedicatory instrument, a board of a property owners' association
19 shall call an annual meeting of the members of the association.

20 (b) If a board of a property owners' association does not
21 call an annual meeting of the association members, an owner may
22 demand that a meeting of the association members be called not later
23 than the 30th day after the date of the owner's demand. The owner's
24 demand must be made in writing and sent by certified mail, return
25 receipt requested, to the registered agent of the property owners'
26 association and to the association at the address for the
27 association according to the most recently filed management

1 certificate. A copy of the notice must be sent to each property
2 owner who is a member of the association.

3 (c) If the board does not call a meeting of the members of
4 the property owners' association on or before the 30th day after the
5 date of a demand under Subsection (b), three or more owners may form
6 an election committee. The election committee shall file written
7 notice of the committee's formation with the county clerk of each
8 county in which the subdivision is located.

9 (d) A notice filed by an election committee must contain:

10 (1) a statement that an election committee has been
11 formed to call a meeting of owners who are members of the property
12 owners' association for the sole purpose of electing board members;

13 (2) the name and residential address of each committee
14 member; and

15 (3) the name of the subdivision over which the
16 property owners' association has jurisdiction under a dedicatory
17 instrument.

18 (e) Each committee member must sign and acknowledge the
19 notice before a notary or other official authorized to take
20 acknowledgments.

21 (f) The county clerk shall enter on the notice the date the
22 notice is filed and record the notice in the county's real property
23 records.

24 (g) Only one committee in a subdivision may operate under
25 this section at one time. If more than one committee in a
26 subdivision files a notice, the first committee that files a
27 notice, after having complied with all other requirements of this

1 section, is the committee with the power to act under this section.
2 A committee that does not hold or conduct a successful election
3 within four months after the date the notice is filed with the
4 county clerk is dissolved by operation of law. An election held or
5 conducted by a dissolved committee is ineffective for any purpose
6 under this section.

7 (h) The election committee may call meetings of the owners
8 who are members of the property owners' association for the sole
9 purpose of electing board members. Notice, quorum, and voting
10 provisions contained in the bylaws of the property owners'
11 association apply to any meeting called by the election committee.

12 SECTION 6. (a) Section 209.005, Property Code, as amended
13 by this Act, applies only to a request for information received by a
14 property owners' association on or after the effective date of this
15 Act. A request for information received by a property owners'
16 association before the effective date of this Act is governed by the
17 law in effect immediately before the effective date of this Act, and
18 that law is continued in effect for that purpose.

19 (b) Subsection (m), Section 209.005, Property Code, as
20 added by this Act, applies only with respect to books and records
21 generated on or after the effective date of this Act. Books and
22 records generated before the effective date of this Act are
23 governed by the law in effect immediately before the effective date
24 of this Act, and that law is continued in effect for that purpose.

25 (c) Section 209.0059 and Subsection (a), Section 209.00591,
26 Property Code, as added by this Act, apply to a provision in a
27 dedicatory instrument or a restrictive covenant enacted before, on,

1 or after the effective date of this Act.

2 (d) Section 209.014, Property Code, as added by this Act,
3 applies to a property owners' association created before, on, or
4 after the effective date of this Act.

5 SECTION 7. This Act takes effect January 1, 2012.

President of the Senate

Speaker of the House

I certify that H.B. No. 2761 was passed by the House on May 4, 2011, by the following vote: Yeas 137, Nays 3, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2761 on May 26, 2011, by the following vote: Yeas 122, Nays 16, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2761 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.011 to read as follows:

Sec. 202.011. FLAG DISPLAY. (a) A property owners' association may not, except as provided in this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

(1) the flag of the United States of America;

(2) the flag of the State of Texas; or

(3) an official or replica flag of any branch of the United States armed forces.

(b) A property owners' association may adopt or enforce reasonable dedicatory instrument provisions:

(1) that require:

(A) the flag of the United States be displayed in accordance with 4 U.S.C. Sections 5-10;

(B) the flag of the State of Texas be displayed in accordance with Chapter 3100, Government Code;

(C) a flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting

1 materials, with a finish appropriate to the materials used in the
2 construction of the flagpole and harmonious with the dwelling;

3 (D) the display of a flag, or the location and
4 construction of the supporting flagpole, to comply with applicable
5 zoning ordinances, easements, and setbacks of record; and

6 (E) a displayed flag and the flagpole on which it
7 is flown be maintained in good condition and that any deteriorated
8 flag or deteriorated or structurally unsafe flagpole be repaired,
9 replaced, or removed;

10 (2) that regulate the size, number, and location of
11 flagpoles on which flags are displayed, except that the regulation
12 may not prevent the installation or erection of at least one
13 flagpole per property that is not more than 20 feet in height;

14 (3) that govern the size of a displayed flag;

15 (4) that regulate the size, location, and intensity of
16 any lights used to illuminate a displayed flag;

17 (5) that impose reasonable restrictions to abate noise
18 caused by an external halyard of a flagpole; or

19 (6) that prohibit a property owner from locating a
20 displayed flag or flagpole on property that is:

21 (A) owned or maintained by the property owners'
22 association; or

23 (B) owned in common by the members of the
24 association.

25 SECTION 2. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 2779

1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 2779 was passed by the House on April 20, 2011, by the following vote: Yeas 143, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2779 on May 26, 2011, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2779 was passed by the Senate, with amendments, on May 23, 2011, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

1 AN ACT

2 relating to the powers and duties of certain master mixed-use
3 property owners' associations.

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

5 SECTION 1. Title 11, Property Code, is amended by adding
6 Chapter 215 to read as follows:

7 CHAPTER 215. MASTER MIXED-USE PROPERTY OWNERS' ASSOCIATIONS

8 Sec. 215.001. DEFINITIONS. In this chapter:

9 (1) "Appraised value" means the property value
10 determined by the appraisal district that establishes property
11 values for taxing entities levying taxes on property in a mixed-use
12 development.

13 (2) "Property owners' association" or "association"
14 means, unless otherwise indicated, a master mixed-use property
15 owners' association.

16 (3) "Dedictory instrument" has the meaning assigned
17 by Section 209.002.

18 (4) "Self-help" means the process by which a property
19 owners' association takes remedial action with regard to property
20 governed by the association.

21 Sec. 215.002. APPLICABILITY OF CHAPTER. (a) This chapter
22 applies to a property owners' association that:

23 (1) includes:

24 (A) commercial properties, including hotel and

1 retail properties, that constitute at least 35 percent of the total
2 appraised property value of the mixed-use development governed by
3 the association;

4 (B) single-family attached and detached
5 properties that constitute at least 25 percent of the total
6 appraised property value of the mixed-use development governed by
7 the association; and

8 (C) multifamily properties that constitute at
9 least 10 percent of the total appraised property value of the
10 mixed-use development governed by the association;

11 (2) governs at least 6,000 acres of deed-restricted
12 property;

13 (3) has at least 10 incorporated residential or
14 commercial property owners' associations that are members of and
15 subject to the dedicatory instruments of the master mixed-use
16 property owners' association;

17 (4) has at least 3,400 platted and developed
18 single-family residential properties and at least 400 separately
19 platted commercial properties, including office, industrial,
20 hotel, and retail properties, which together constitute at least 30
21 million square feet of building area available for rental; and

22 (5) participates in the maintenance of public space,
23 including parks, medians, and lakefronts, owned by local, including
24 county, or state governmental entities.

25 (b) This chapter applies to property that is:

26 (1) governed by a property owners' association
27 described by Subsection (a);

1 (2) located in a master mixed-use development; and

2 (3) subject to a provision, including a restriction,
3 in a declaration that:

4 (A) requires mandatory membership in the
5 association; and

6 (B) authorizes the association to collect a
7 regular or special assessment on all or a majority of the property
8 in the development.

9 (c) Except as otherwise provided by this chapter, this
10 chapter applies only to a master mixed-use property owners'
11 association and not to the independent property owners'
12 associations that are members of the master mixed-use property
13 owners' association.

14 Sec. 215.003. APPLICABILITY OF CHAPTER 209. Sections
15 209.007, 209.008, 209.011, and 209.012 apply only to single-family
16 residential properties governed by a property owners' association
17 subject to this chapter.

18 Sec. 215.004. CONFLICTS OF LAW. Notwithstanding any other
19 provision of law, the provisions of this chapter prevail over a
20 conflicting or inconsistent provision of law relating to
21 independent property owners' associations.

22 Sec. 215.005. BOARD POWERS. In addition to any other powers
23 provided by applicable law and this chapter, and unless otherwise
24 provided by the dedicatory instruments of the property owners'
25 association, the association, acting through its board of
26 directors, may:

27 (1) adopt and amend bylaws;

1 (2) adopt and amend budgets for revenues,
2 expenditures, and reserves and collect assessments for common
3 expenses from property owners;

4 (3) adopt reasonable rules;

5 (4) hire and terminate managing agents and other
6 agents, employees, and independent contractors;

7 (5) institute, defend, intervene in, settle, or
8 compromise litigation or administrative proceedings on matters
9 affecting a property governed by the association;

10 (6) make contracts and incur liabilities relating to
11 the operation of the association;

12 (7) regulate the use, maintenance, repair,
13 replacement, modification, and appearance of the property governed
14 by the association;

15 (8) make improvements to be included as a part of the
16 common area;

17 (9) acquire, hold, encumber, and convey in its own
18 name any right, title, or interest to real or personal property;

19 (10) purchase an investment property that is not part
20 of the common area;

21 (11) grant easements, leases, licenses, and
22 concessions through or over the common elements;

23 (12) impose and receive payments, fees, or charges for
24 the use, rental, or operation of the common area and for services
25 provided to property owners;

26 (13) impose interest, late charges, and, if
27 applicable, returned check charges for late payments of regular

1 assessments or special assessments;

2 (14) charge costs to an owner's assessment account and
3 collect the costs in any manner provided in the restrictions for the
4 collection of assessments;

5 (15) adopt and amend rules regulating the collection
6 of delinquent assessments;

7 (16) impose reasonable charges for preparing,
8 recording, or copying amendments to resale certificates or
9 statements of unpaid assessments;

10 (17) purchase insurance and fidelity bonds, including
11 directors' and officers' liability insurance, that the board
12 considers appropriate or necessary;

13 (18) subject to the requirements of the provisions
14 described by Section 1.008(d), Business Organizations Code, and by
15 majority vote of the board, indemnify a director or officer of the
16 association who was, is, or may be made a named defendant or
17 respondent in a proceeding because the person is or was a director
18 or officer;

19 (19) if the restrictions vest the architectural
20 control authority in the association:

21 (A) implement written architectural control
22 guidelines for its own use, or record the guidelines in the real
23 property records of the applicable county; and

24 (B) modify the guidelines as the needs of the
25 development change;

26 (20) exercise self-help with regard to property
27 governed by the association;

1 (21) exercise other powers conferred by the dedicatory
2 instruments;

3 (22) exercise other powers necessary and proper for
4 the governance and operation of the association; and

5 (23) exercise any other powers that may be exercised
6 in this state by a corporation of the same type as the association.

7 Sec. 215.006. ANNUAL MEETING OF ASSOCIATION MEMBERS; NOTICE
8 OF ANNUAL OR SPECIAL MEETING. (a) An annual meeting of members of a
9 property owners' association must be conducted in accordance with
10 the association's dedicatory instruments.

11 (b) Unless otherwise provided by a dedicatory instrument,
12 an annual meeting of the property owners' association members is
13 open to association members and must be held in a county in which
14 all or part of the property governed by the association is located
15 or in a county adjacent to that county.

16 (c) Unless otherwise provided by a dedicatory instrument,
17 the board shall give members notice of the date, time, place, and
18 subject of an annual or special meeting of the members. The notice
19 must be delivered to each member not later than the 10th day and not
20 earlier than the 60th day before the date of the meeting.

21 (d) A notice under Subsection (c) must be posted in a
22 conspicuous manner reasonably designed to provide notice to
23 association members:

24 (1) in a place located outside the corporate offices
25 of the association that is accessible by the general membership
26 during normal business hours; or

27 (2) on any Internet website maintained by the

1 association.

2 (e) Unless otherwise provided by a dedicatory instrument,
3 any number of the members may attend the meeting by use of
4 videoconferencing or a similar telecommunication method for
5 purposes of establishing full participation in the meeting.

6 Sec. 215.007. BOARD MEETINGS. (a) A meeting of the board
7 of directors of a property owners' association must be conducted in
8 accordance with the association's dedicatory instruments.

9 (b) Unless otherwise provided by a dedicatory instrument,
10 elected directors who represent the commercial and residential
11 membership attend and conduct the business of the property owners'
12 association at a meeting under this section.

13 (c) In this section, a board meeting has the meaning
14 assigned by a dedicatory instrument. Notwithstanding this
15 subsection, the term does not include the gathering of a quorum of
16 the board at any other venue, including at a social function
17 unrelated to the business of the association, or the attendance by a
18 quorum of the board at a regional, state, or national convention,
19 workshop, ceremonial event, or press conference, if formal action
20 is not taken and any discussion of association business is
21 incidental to the social function, convention, workshop,
22 ceremonial event, or press conference.

23 (d) Unless otherwise provided by a dedicatory instrument,
24 the board shall keep a record of each regular, emergency, or special
25 board meeting in the form of written minutes or an audio recording
26 of the meeting. A record of a meeting must state the subject of each
27 motion or inquiry, regardless of whether the board takes action on

1 the motion or inquiry, and indicate each vote, order, decision, or
2 other action taken by the board. The board shall make meeting
3 records, including approved minutes, available to a member for
4 inspection and copying, at the member's expense, during the normal
5 business hours of the association on the member's written request
6 to the board or the board's representative. The board shall approve
7 the minutes of a board meeting not later than the next regular board
8 meeting.

9 (e) Unless otherwise provided by a dedicatory instrument,
10 before the board calls an executive session, the board shall
11 convene in a regular or special board meeting for which notice has
12 been given as provided by this section. During that board meeting,
13 the presiding board member may call an executive session by
14 announcing that an executive session will be held to deliberate a
15 matter described by Subsection (f) and identifying the specific
16 subdivision of Subsection (f) under which the executive session
17 will be held. A vote or other action item may not be taken in
18 executive session. An executive session is not subject to the
19 requirements of Subsection (d).

20 (f) Unless otherwise provided by a dedicatory instrument, a
21 property owners' association board may meet in executive session to
22 deliberate:

23 (1) anticipated or pending litigation, settlement
24 offers, or interpretations of the law with the association's legal
25 counsel;

26 (2) complaints or charges against or issues regarding
27 a board member or an agent, employee, contractor, or other

1 representative of the association;

2 (3) all financial matters concerning a specific
3 property owner;

4 (4) a payment plan for an association member who has a
5 financial obligation to the association;

6 (5) a foreclosure of a lien;

7 (6) an enforcement action against an association
8 member, including for nonpayment of amounts due;

9 (7) the purchase, exchange, lease, or value of real
10 property, if the board determines in good faith that deliberation
11 in an open board meeting may have a detrimental effect on the
12 association;

13 (8) business and financial issues relating to the
14 negotiation of a contract, if the board determines in good faith
15 that deliberation in an open board meeting may have a detrimental
16 effect on the position of the association;

17 (9) matters involving the invasion of privacy of an
18 individual owner;

19 (10) an employee matter; and

20 (11) any other matter the board considers necessary or
21 reasonable to further assist the association's operation.

22 Sec. 215.008. VOTING. (a) The number of votes to which an
23 individual or corporation who is a member of a property owners'
24 association is entitled is determined by the dedicatory instruments
25 of the association.

26 (b) Each corporation or individual who is a member of the
27 property owners' association may vote by proxy as provided for

1 nonprofit corporations under Sections 22.160(b) and (c), Business
2 Organizations Code.

3 (c) Notwithstanding any provision of the certificate of
4 formation or bylaws to the contrary, a member vote on any matter may
5 be conducted by mail, by facsimile transmission, by e-mail, or by
6 any combination of those methods.

7 Sec. 215.009. RESTRICTIVE COVENANTS. (a) A property
8 owners' association may enforce its restrictive covenants as
9 follows:

10 (1) by exercising discretionary authority relating to
11 a restrictive covenant unless a court has determined by a
12 preponderance of the evidence that the exercise of discretionary
13 authority was arbitrary, capricious, or discriminatory; and

14 (2) by initiating, defending, or intervening in
15 litigation or an administrative proceeding affecting the
16 enforcement of a restrictive covenant or the protection,
17 preservation, or operation of property subject to the association's
18 dedicatory instruments.

19 (b) If the association prevails in an action to enforce
20 restrictive covenants, the association may recover reasonable
21 attorney's fees and costs incurred.

22 (c) An association may use self-help to enforce its
23 restrictive covenants against a residential or commercial property
24 owner as necessary to prevent immediate harm to a person or
25 property, or as otherwise reasonable. If a property owner commits a
26 subsequent repeat violation of the restrictive covenants within 12
27 months of the initial violation, the association is not required to

1 provide the property owner with advance notice before the
2 association implements self-help.

3 (d) For purposes of Subsection (c), an advance, annual
4 notice of maintenance requirements is considered notice to the
5 extent notice is required.

6 Sec. 215.010. ATTORNEY'S FEES IN BREACH OF RESTRICTIVE
7 COVENANT ACTION. In an action based on breach of a restrictive
8 covenant, the prevailing party is entitled to reasonable attorney's
9 fees, costs, and actual damages.

10 Sec. 215.011. COMMON AREAS. A property owners' association
11 may adopt reasonable rules regulating common areas.

12 Sec. 215.012. RESALE CERTIFICATES. A property owners'
13 association shall provide resale certificates only for residential
14 properties and in the manner provided by Section 207.003.

15 Sec. 215.013. MANAGEMENT CERTIFICATE. (a) A property
16 owners' association shall record in each county in which any
17 portion of the development governed by the association is located a
18 management certificate, signed and acknowledged by an officer of
19 the association, stating:

20 (1) the name of the development;

21 (2) the name of the association;

22 (3) the recording data for the declaration and all
23 supplementary declarations;

24 (4) the applicability of any supplementary
25 declarations to residential communities;

26 (5) the name and mailing address of the association;

27 and

1 (6) other information the association considers
2 appropriate.

3 (b) A property owners' association shall record an amended
4 management certificate not later than the 30th day after the date
5 the association has notice of a change in information in the
6 recorded certificate required by Subsection (a).

7 (c) The association and its officers, directors, employees,
8 and agents are not liable to any person or corporation for delay in
9 recording or failure to record a management certificate unless the
10 delay or failure is willful or caused by gross negligence.

11 Sec. 215.014. PRIORITY OF PAYMENTS. Unless otherwise
12 provided in writing by the property owner at the time payment is
13 made, a payment received by a property owners' association from the
14 owner shall be applied to the owner's debt in the following order of
15 priority:

16 (1) any delinquent assessment;

17 (2) any current assessment;

18 (3) any attorney's fees incurred by the association
19 associated solely with assessments or any other charge that could
20 provide the basis for foreclosure;

21 (4) any fines assessed by the association;

22 (5) any attorney's fees incurred by the association
23 that are not subject to Subdivision (3); and

24 (6) any other amount owed to the association.

25 Sec. 215.015. FORECLOSURE. A property owners' association
26 may not foreclose an association assessment lien unless the
27 association first obtains a court order of sale.

1 SECTION 2. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 2869 was passed by the House on April 26, 2011, by the following vote: Yeas 148, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2869 on May 25, 2011, by the following vote: Yeas 145, Nays 0, 3 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2869 was passed by the Senate, with amendments, on May 24, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to rainwater harvesting and other water conservation initiatives.

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

SECTION 1. Subchapter A, Chapter 59, Finance Code, is amended by adding Section 59.012 to read as follows:

Sec. 59.012. LOANS FOR DEVELOPMENTS THAT USE HARVESTED RAINWATER. Financial institutions may consider making loans for developments that will use harvested rainwater as the sole source of water supply.

SECTION 2. Section 447.004, Government Code, is amended by amending Subsection (c-1) and adding Subsection (c-3) to read as follows:

(c-1) The procedural standards adopted under this section must require that:

(1) on-site reclaimed system technologies, including rainwater harvesting, condensate collection, or cooling tower blow down, or a combination of those system technologies, for potable and nonpotable indoor use and landscape watering be incorporated into the design and construction of:

(A) [~~(1)~~] each new state building with a roof measuring at least 10,000 square feet; and

(B) [~~(2)~~] any other new state building for which the incorporation of such systems is feasible; and

1 (2) rainwater harvesting system technology for
2 potable and nonpotable indoor use and landscape watering be
3 incorporated into the design and construction of each new state
4 building with a roof measuring at least 50,000 square feet that is
5 located in an area of this state in which the average annual
6 rainfall is at least 20 inches.

7 (c-3) The procedural standards required by Subsection
8 (c-1)(2) apply to a building described by that subdivision unless
9 Subsection (c-2) applies or the state agency or institution of
10 higher education constructing the building provides the state
11 energy conservation office evidence that the amount of rainwater
12 that will be harvested from one or more existing buildings at the
13 same location is equivalent to the amount of rainwater that could
14 have been harvested from the new building had rainwater harvesting
15 system technology been incorporated into its design and
16 construction.

17 SECTION 3. Section 341.042, Health and Safety Code, is
18 amended by amending Subsection (b) and adding Subsections (b-1),
19 (b-2), and (b-3) to read as follows:

20 (b) The commission by rule shall provide that if a structure
21 is connected to a public water supply system and has a rainwater
22 harvesting system, ~~[for indoor use:~~

23 ~~[(1)]~~ the structure must have appropriate
24 cross-connection safeguards ~~[, and~~

25 ~~[(2) the rainwater harvesting system may be used only~~
26 ~~for nonpotable indoor purposes]~~.

27 (b-1) The commission shall develop rules regarding the

1 installation and maintenance of rainwater harvesting systems that
2 are used for indoor potable purposes and connected to a public water
3 supply system. The rules must contain criteria that are sufficient
4 to ensure that:

5 (1) safe sanitary drinking water standards are met;
6 and

7 (2) harvested rainwater does not come into
8 communication with a public water supply system's drinking water at
9 a location off of the property on which the rainwater harvesting
10 system is located.

11 (b-2) A person who intends to connect a rainwater harvesting
12 system to a public water supply system for use for potable purposes
13 must receive the consent of the municipality in which the rainwater
14 harvesting system is located or the owner or operator of the public
15 water supply system before connecting the rainwater harvesting
16 system to the public water supply system.

17 (b-3) A municipality or the owner or operator of a public
18 water supply system may not be held liable for any adverse health
19 effects allegedly caused by the consumption of water collected by a
20 rainwater harvesting system that is connected to a public water
21 supply system and is used for potable purposes if the municipality
22 or the public water supply system is in compliance with the sanitary
23 standards for drinking water adopted by the commission and
24 applicable to the municipality or public water supply system.

25 SECTION 4. Chapter 580, Local Government Code, is amended
26 by adding Section 580.004 to read as follows:

27 Sec. 580.004. RAINWATER HARVESTING. (a) Each municipality

1 and county is encouraged to promote rainwater harvesting at
2 residential, commercial, and industrial facilities through
3 incentives such as the provision at a discount of rain barrels or
4 rebates for water storage facilities.

5 (b) The Texas Water Development Board shall ensure that
6 training on rainwater harvesting is available for the members of
7 the permitting staffs of municipalities and counties at least
8 quarterly. Each member of the permitting staff of each county and
9 municipality located wholly or partly in an area designated by the
10 Texas Commission on Environmental Quality as a priority groundwater
11 management area under Section 35.008, Water Code, whose work
12 relates directly to permits involving rainwater harvesting and each
13 member of the permitting staff of each county and municipality with
14 a population of more than 100,000 whose work relates directly to
15 permits involving rainwater harvesting must receive appropriate
16 training regarding rainwater harvesting standards and their
17 relation to permitting at least once every five years. Members of
18 the permitting staffs of counties and municipalities not located
19 wholly or partly in an area designated by the Texas Commission on
20 Environmental Quality as a priority groundwater management area
21 under Section 35.008, Water Code, whose work relates directly to
22 permits involving rainwater harvesting and members of the
23 permitting staffs of counties and municipalities with a population
24 of 100,000 or less whose work relates directly to permits involving
25 rainwater harvesting are encouraged to receive the training. The
26 Texas Water Development Board may provide appropriate training by
27 seminars or by videotape or functionally similar and widely

1 available media without cost.

2 (c) A municipality or county may not deny a building permit
3 solely because the facility will implement rainwater harvesting.
4 However, a municipality or county may require that a rainwater
5 harvesting system comply with the minimum state standards
6 established for such a system.

7 (d) Each school district is encouraged to implement
8 rainwater harvesting at facilities of the district.

9 SECTION 5. Section 5.008(b), Property Code, is amended to
10 read as follows:

11 (b) The notice must be executed and must, at a minimum, read
12 substantially similar to the following:

13 SELLER'S DISCLOSURE NOTICE

14 CONCERNING THE PROPERTY AT _____
15 (Street Address and City)

16 THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF
17 THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY
18 SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR
19 WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT
20 A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

21 Seller ___ is ___ is not occupying the Property.

22 If unoccupied, how long since Seller has occupied the Property?

23 _____

24 1. The Property has the items checked below:

25 Write Yes (Y), No (N), or Unknown (U).

- | | | | |
|----|---------------------------------------|---|---------------------------------------|
| 26 | <input type="checkbox"/> Range | <input type="checkbox"/> Oven | <input type="checkbox"/> Microwave |
| 27 | <input type="checkbox"/> Dishwasher | <input type="checkbox"/> Trash Compactor | <input type="checkbox"/> Disposal |
| 28 | <input type="checkbox"/> Washer/Dryer | <input type="checkbox"/> Window | <input type="checkbox"/> Rain Gutters |
| 29 | <input type="checkbox"/> Hookups | <input type="checkbox"/> Screens | |
| 30 | <input type="checkbox"/> Security | <input type="checkbox"/> Fire Detection | <input type="checkbox"/> Intercom |
| 31 | <input type="checkbox"/> System | <input type="checkbox"/> Equipment | <input type="checkbox"/> System |
| 32 | | <input type="checkbox"/> Smoke Detector | |
| 33 | | <input type="checkbox"/> Smoke Detector - | |
| 34 | | <input type="checkbox"/> Hearing Impaired | |

- 1 ___ Carbon Monoxide
- 2 Alarm
- 3 ___ Emergency Escape
- 4 Ladder(s)
- 5 ___ TV Antenna ___ Cable TV ___ Satellite
- 6 Wiring Dish
- 7 ___ Ceiling Fan(s) ___ Attic Fan(s) ___ Exhaust
- 8 Fan(s)
- 9 ___ Central A/C ___ Central Heating ___ Wall/Window
- 10 Air
- 11 Conditioning
- 12 ___ Plumbing System ___ Septic System ___ Public Sewer
- 13 System
- 14 ___ Patio/Decking ___ Outdoor Grill ___ Fences
- 15 ___ Pool ___ Sauna ___ Spa
- 16 Hot Tub
- 17 ___ Pool Equipment ___ Pool Heater ___ Automatic Lawn
- 18 Sprinkler
- 19 System
- 20 ___ Fireplace(s) &
- 21 Chimney ___ Fireplace(s) &
- 22 (Woodburning) Chimney
- 23 ___ Gas Lines ___ Gas Fixtures
- 24 (Nat./LP)
- 25 Garage: ___ Attached ___ Not Attached ___ Carport
- 26 Garage Door Opener(s): ___ Electronic ___ Control(s)
- 27 Water Heater: ___ Gas ___ Electric
- 28 Water Supply: ___ City ___ Well ___ MUD ___ Co-op
- 29 Roof Type: _____ Age: _____(approx)

30 Are you (Seller) aware of any of the above items that are not in
 31 working condition, that have known defects, or that are in need of
 32 repair? ___ Yes ___ No ___ Unknown.

33 If yes, then describe. (Attach additional sheets if necessary):
 34 _____
 35 _____

36 2. Does the property have working smoke detectors installed in
 37 accordance with the smoke detector requirements of Chapter 766,
 38 Health and Safety Code?* ___ Yes ___ No ___ Unknown.

39 If the answer to the question above is no or unknown,
 40 explain. (Attach additional sheets if necessary):
 41 _____

1 _____

2 *Chapter 766 of the Health and Safety Code requires

3 one-family or two-family dwellings to have working smoke detectors

4 installed in accordance with the requirements of the building code

5 in effect in the area in which the dwelling is located, including

6 performance, location, and power source requirements. If you do

7 not know the building code requirements in effect in your area, you

8 may check unknown above or contact your local building official for

9 more information. A buyer may require a seller to install smoke

10 detectors for the hearing impaired if: (1) the buyer or a member of

11 the buyer's family who will reside in the dwelling is hearing

12 impaired; (2) the buyer gives the seller written evidence of the

13 hearing impairment from a licensed physician; and (3) within 10

14 days after the effective date, the buyer makes a written request for

15 the seller to install smoke detectors for the hearing impaired and

16 specifies the locations for installation. The parties may agree who

17 will bear the cost of installing the smoke detectors and which brand

18 of smoke detectors to install.

19 3. Are you (Seller) aware of any known defect/malfunctions in any

20 of the following?

21 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- | | | | |
|----|--|---|---|
| 22 | <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Ceilings | <input type="checkbox"/> Floors |
| 23 | <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Doors | <input type="checkbox"/> Windows |
| 24 | <input type="checkbox"/> Roof | <input type="checkbox"/> Foundation/
Slab(s) | <input type="checkbox"/> Basement |
| 25 | | | |
| 26 | <input type="checkbox"/> Walls/Fences | <input type="checkbox"/> Driveways | <input type="checkbox"/> Sidewalks |
| 27 | <input type="checkbox"/> Plumbing/Sewers/
Septics | <input type="checkbox"/> Electrical
Systems | <input type="checkbox"/> Lighting
Fixtures |

29 Other Structural Components (Describe): _____

30 _____

1 _____

2 If the answer to any of the above is yes, explain. (Attach
3 additional sheets if necessary): _____

4 _____

5 _____

6 4. Are you (Seller) aware of any of the following conditions?

7 Write Yes (Y) if you are aware, write No (N) if you are not aware.

- | | | |
|----|---|---|
| 8 | <input type="checkbox"/> Active Termites | <input type="checkbox"/> Previous Structural |
| 9 | (includes | or Roof Repair |
| 10 | wood-destroying insects) | |
| 11 | <input type="checkbox"/> Termite or Wood Rot | <input type="checkbox"/> Hazardous or Toxic Waste |
| 12 | Damage | |
| 13 | Needing Repair | |
| 14 | <input type="checkbox"/> Previous Termite Damage | <input type="checkbox"/> Asbestos Components |
| 15 | <input type="checkbox"/> Previous Termite | <input type="checkbox"/> Urea formaldehyde |
| 16 | Treatment | Insulation |
| 17 | <input type="checkbox"/> Previous Flooding | <input type="checkbox"/> Radon Gas |
| 18 | <input type="checkbox"/> Improper Drainage | <input type="checkbox"/> Lead Based Paint |
| 19 | <input type="checkbox"/> Water Penetration | <input type="checkbox"/> Aluminum Wiring |
| 20 | <input type="checkbox"/> Located in 100-Year | <input type="checkbox"/> Previous Fires |
| 21 | Floodplain | |
| 22 | <input type="checkbox"/> Present Flood Insurance | <input type="checkbox"/> Unplatted Easements |
| 23 | Coverage | |
| 24 | <input type="checkbox"/> Landfill, Settling, Soil | <input type="checkbox"/> Subsurface |
| 25 | Movement, Fault Lines | Structure or Pits |
| 26 | | <input type="checkbox"/> Previous Use of |
| 27 | | Premises for |
| 28 | | |
| 29 | | Manufacture of Methamphetamine |

30 If the answer to any of the above is yes, explain. (Attach
31 additional sheets if necessary): _____

32 _____

33 _____

34 5. Are you (Seller) aware of any item, equipment, or system in or
35 on the property that is in need of repair? Yes (if you are
36 aware) No (if you are not aware). If yes, explain (attach
37 additional sheets as necessary). _____

1 6. Are you (Seller) aware of any of the following?

2 Write Yes (Y) if you aware, write No (N) if you are not aware.

3 ___ Room additions, structural modifications, or other
4 alterations or repairs made without necessary permits or not
5 in compliance with building codes in effect at that time.

6 ___ Homeowners' Association or maintenance fees or assessments.

7 ___ Any "common area" (facilities such as pools, tennis courts,
8 walkways, or other areas) co-owned in undivided interest with
9 others.

10 ___ Any notices of violations of deed restrictions or
11 governmental ordinances affecting the condition or use of the
12 Property.

13 ___ Any lawsuits directly or indirectly affecting the Property.

14 ___ Any condition on the Property which materially affects the
15 physical health or safety of an individual.

16 ___ Any rainwater harvesting system connected to the property's
17 public water supply that is able to be used for indoor potable
18 purposes.

19 If the answer to any of the above is yes, explain. (Attach
20 additional sheets if necessary): _____

21 _____

22 _____

23 7. If the property is located in a coastal area that is seaward of
24 the Gulf Intracoastal Waterway or within 1,000 feet of the mean high
25 tide bordering the Gulf of Mexico, the property may be subject to
26 the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63,
27 Natural Resources Code, respectively) and a beachfront
28 construction certificate or dune protection permit may be required
29 for repairs or improvements. Contact the local government with
30 ordinance authority over construction adjacent to public beaches
31 for more information.

32 _____
33 Date Signature of Seller

34 The undersigned purchaser hereby acknowledges receipt of the
35 foregoing notice.

1 _____
2 Date Signature of Purchaser

3 SECTION 6. Section 202.007(d), Property Code, is amended to
4 read as follows:

5 (d) This section does not:

6 (1) restrict a property owners' association from
7 regulating the requirements, including size, type, shielding, and
8 materials, for or the location of a composting device~~[, rain~~
9 ~~barrel, rain harvesting device, or any other appurtenance]~~ if the
10 restriction does not prohibit the economic installation of the
11 device ~~[or appurtenance]~~ on the property owner's property where
12 there is reasonably sufficient area to install the device ~~[or~~
13 ~~appurtenance]~~;

14 (2) require a property owners' association to permit a
15 device ~~[or appurtenance]~~ described by Subdivision (1) to be
16 installed in or on property:

17 (A) owned by the property owners' association;

18 (B) owned in common by the members of the
19 property owners' association; or

20 (C) in an area other than the fenced yard or patio
21 of a property owner;

22 (3) prohibit a property owners' association from
23 regulating the installation of efficient irrigation systems,
24 including establishing visibility limitations for aesthetic
25 purposes;

26 (4) prohibit a property owners' association from
27 regulating the installation or use of gravel, rocks, or cacti; ~~[or]~~

1 (5) restrict a property owners' association from
2 regulating yard and landscape maintenance if the restrictions or
3 requirements do not restrict or prohibit turf or landscaping design
4 that promotes water conservation;

5 (6) require a property owners' association to permit a
6 rain barrel or rainwater harvesting system to be installed in or on
7 property if:

8 (A) the property is:

9 (i) owned by the property owners'
10 association;

11 (ii) owned in common by the members of the
12 property owners' association; or

13 (iii) located between the front of the
14 property owner's home and an adjoining or adjacent street; or

15 (B) the barrel or system:

16 (i) is of a color other than a color
17 consistent with the color scheme of the property owner's home; or

18 (ii) displays any language or other content
19 that is not typically displayed by such a barrel or system as it is
20 manufactured; or

21 (7) restrict a property owners' association from
22 regulating the size, type, and shielding of, and the materials used
23 in the construction of, a rain barrel, rainwater harvesting device,
24 or other appurtenance that is located on the side of a house or at
25 any other location that is visible from a street, another lot, or a
26 common area if:

27 (A) the restriction does not prohibit the

1 economic installation of the device or appurtenance on the property
2 owner's property; and

3 (B) there is a reasonably sufficient area on the
4 property owner's property in which to install the device or
5 appurtenance.

6 SECTION 7. Section 1.003, Water Code, is amended to read as
7 follows:

8 Sec. 1.003. PUBLIC POLICY. It is the public policy of the
9 state to provide for the conservation and development of the
10 state's natural resources, including:

11 (1) the control, storage, preservation, and
12 distribution of the state's storm and floodwaters and the waters of
13 its rivers and streams for irrigation, power, and other useful
14 purposes;

15 (2) the reclamation and irrigation of the state's
16 arid, semiarid, and other land needing irrigation;

17 (3) the reclamation and drainage of the state's
18 overflowed land and other land needing drainage;

19 (4) the conservation and development of its forest,
20 water, and hydroelectric power;

21 (5) the navigation of the state's inland and coastal
22 waters;

23 (6) the maintenance of a proper ecological environment
24 of the bays and estuaries of Texas and the health of related living
25 marine resources; [~~and~~]

26 (7) the voluntary stewardship of public and private
27 lands to benefit waters of the state; and

1 (8) the promotion of rainwater harvesting for potable
2 and nonpotable purposes at public and private facilities in this
3 state, including residential, commercial, and industrial
4 buildings.

5 SECTION 8. If the 82nd Legislature makes an appropriation
6 to the Texas Water Development Board to provide matching grants to
7 political subdivisions of this state for rainwater harvesting
8 demonstration projects, the board shall, not later than December 1,
9 2012, provide a report to the lieutenant governor and the speaker of
10 the house of representatives regarding the projects for which the
11 board has provided grants, including:

- 12 (1) a description of each project; and
13 (2) the amount of the grant provided for each project.

14 SECTION 9. Section 5.008(b), Property Code, as amended by
15 this Act, applies only to a transfer of property that occurs on or
16 after the effective date of this Act. A transfer of property that
17 occurs before the effective date of this Act is governed by the law
18 applicable to the transfer immediately before that date, and the
19 former law is continued in effect for that purpose. For the
20 purposes of this section, a transfer of property occurs before the
21 effective date of this Act if the contract binding the purchaser to
22 purchase the property is executed before that date.

23 SECTION 10. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 3391 was passed by the House on May 5, 2011, by the following vote: Yeas 141, Nays 2, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3391 on May 23, 2011, by the following vote: Yeas 144, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3391 was passed by the Senate, with amendments, on May 20, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

1 AN ACT

2 relating to the regulation of nonjudicial foreclosure on residences
3 owned by certain members of the military, including foreclosure by
4 a property owners' association.

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

6 SECTION 1. Section 51.002, Property Code, is amended by
7 adding Subsection (i) to read as follows:

8 (i) Notice served under Subsection (b)(3) or (d) must state
9 the name and address of the sender of the notice and contain a
10 statement that is conspicuous, printed in boldface or underlined
11 type, and substantially similar to the following: "Assert and
12 protect your rights as a member of the armed forces of the United
13 States. If you are or your spouse is serving on active military
14 duty, including active military duty as a member of the Texas
15 National Guard or the National Guard of another state or as a member
16 of a reserve component of the armed forces of the United States,
17 please send written notice of the active duty military service to
18 the sender of this notice immediately."

19 SECTION 2. Subsection (a), Section 51.015, Property Code,
20 is amended by adding Subdivision (1-a) to read as follows:

21 (1-a) "Assessment" and "assessments" have the
22 meanings assigned by Sections 82.113(a) and 209.002, as applicable.

23 SECTION 3. Subsection (b), Section 51.015, Property Code,
24 is amended to read as follows:

1 (b) This section applies only to an obligation:

2 (1) that is secured by a mortgage, deed of trust, or
3 other contract lien, including a lien securing payment of an
4 assessment or assessments, as applicable, on real property or
5 personal property that is a dwelling owned by a military
6 servicemember;

7 (2) that originates before the date on which the
8 servicemember's active duty military service commences; and

9 (3) for which the servicemember is still obligated.

10 SECTION 4. The changes in law made by this Act apply only to
11 the levy of an assessment or assessments as described by Section
12 51.015, Property Code, as amended by this Act, the effective date of
13 which is on or after the effective date of this Act. A levy of an
14 assessment or assessments the effective date of which is before the
15 effective date of this Act is governed by the law as it existed
16 immediately before the effective date of this Act, and that law is
17 continued in effect for that purpose.

18 SECTION 5. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 101 passed the Senate on March 24, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 101 passed the House on May 19, 2011, by the following vote: Yeas 148, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

AN ACT

relating to voting practices and elections of property owners' associations.

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

SECTION 1. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) The following provisions of this chapter do not apply to a property owners' association that is a mixed use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines:

(1) Section 209.0058; and

(2) Section 209.00593.

SECTION 2. Chapter 209, Property Code, is amended by adding Section 209.0041 to read as follows:

Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY INSTRUMENTS. (a) In this section, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision; and

(2) a right to direct the size, shape, and composition of the subdivision.

(b) This section applies to a residential subdivision in which property owners are subject to mandatory membership in a

1 property owners' association.

2 (c) This section does not apply to a property owners'
3 association that is subject to Chapter 552, Government Code, by
4 application of Section 552.0036, Government Code.

5 (d) This section does not apply to the amendment of a
6 declaration during a development period.

7 (e) This section applies to a dedicatory instrument
8 regardless of the date on which the dedicatory instrument was
9 created.

10 (f) This section supersedes any contrary requirement in a
11 dedicatory instrument.

12 (g) To the extent of any conflict with another provision of
13 this title, this section prevails.

14 (h) Except as provided by this subsection, a declaration may
15 be amended only by a vote of 67 percent of the total votes allocated
16 to property owners in the property owners' association, in addition
17 to any governmental approval required by law. If the declaration
18 contains a lower percentage, the percentage in the declaration
19 controls.

20 (i) A bylaw may not be amended to conflict with the
21 declaration.

22 SECTION 3. Chapter 209, Property Code, is amended by adding
23 Sections 209.0058, 209.0059, 209.00592, 209.00593, and 209.00594
24 to read as follows:

25 Sec. 209.0058. BALLOTS. (a) Any vote cast in an election
26 or vote by a member of a property owners' association must be in
27 writing and signed by the member.

1 (b) Electronic votes cast under Section 209.00593
2 constitute written and signed ballots.

3 (c) In an association-wide election, written and signed
4 ballots are not required for uncontested races.

5 Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a
6 dedicatory instrument that would disqualify a property owner from
7 voting in an association election of board members or on any matter
8 concerning the rights or responsibilities of the owner is void.

9 (b) This section does not apply to a property owners'
10 association that is subject to Chapter 552, Government Code, by
11 application of Section 552.0036, Government Code.

12 Sec. 209.00592. BOARD MEMBERSHIP. (a) Except as provided
13 by Subsection (b), a provision in a dedicatory instrument that
14 restricts a property owner's right to run for a position on the
15 board of the property owners' association is void.

16 (b) If a board is presented with written, documented
17 evidence from a database or other record maintained by a
18 governmental law enforcement authority that a board member has been
19 convicted of a felony or crime involving moral turpitude, the board
20 member is immediately ineligible to serve on the board of the
21 property owners' association, automatically considered removed
22 from the board, and prohibited from future service on the board.

23 Sec. 209.00593. VOTING; QUORUM. (a) The voting rights of
24 an owner may be cast or given:

25 (1) in person or by proxy at a meeting of the property
26 owners' association;

27 (2) by absentee ballot in accordance with this

1 section;

2 (3) by electronic ballot in accordance with this
3 section; or

4 (4) by any method of representative or delegated
5 voting provided by a dedicatory instrument.

6 (b) An absentee or electronic ballot:

7 (1) may be counted as an owner present and voting for
8 the purpose of establishing a quorum only for items appearing on the
9 ballot;

10 (2) may not be counted, even if properly delivered, if
11 the owner attends any meeting to vote in person, so that any vote
12 cast at a meeting by a property owner supersedes any vote submitted
13 by absentee or electronic ballot previously submitted for that
14 proposal; and

15 (3) may not be counted on the final vote of a proposal
16 if the motion was amended at the meeting to be different from the
17 exact language on the absentee or electronic ballot.

18 (c) A solicitation for votes by absentee ballot must
19 include:

20 (1) an absentee ballot that contains each proposed
21 action and provides an opportunity to vote for or against each
22 proposed action;

23 (2) instructions for delivery of the completed
24 absentee ballot, including the delivery location; and

25 (3) the following language: "By casting your vote via
26 absentee ballot you will forgo the opportunity to consider and vote
27 on any action from the floor on these proposals, if a meeting is

1 held. This means that if there are amendments to these proposals
2 your votes will not be counted on the final vote on these measures.
3 If you desire to retain this ability, please attend any meeting in
4 person. You may submit an absentee ballot and later choose to
5 attend any meeting in person, in which case any in-person vote will
6 prevail."

7 (d) For the purposes of this section, "electronic ballot"
8 means a ballot:

9 (1) given by:

10 (A) e-mail;

11 (B) facsimile; or

12 (C) posting on an Internet website;

13 (2) for which the identity of the property owner
14 submitting the ballot can be confirmed; and

15 (3) for which the property owner may receive a receipt
16 of the electronic transmission and receipt of the owner's ballot.

17 (e) If an electronic ballot is posted on an Internet
18 website, a notice of the posting shall be sent to each owner that
19 contains instructions on obtaining access to the posting on the
20 website.

21 (f) This section supersedes any contrary provision in a
22 dedicatory instrument.

23 (g) This section does not apply to a property owners'
24 association that is subject to Chapter 552, Government Code, by
25 application of Section 552.0036, Government Code.

26 Sec. 209.00594. TABULATION OF AND ACCESS TO BALLOTS.

27 (a) Notwithstanding any other provision of this chapter or any

1 other law, a person who is a candidate in a property owners'
2 association election or who is otherwise the subject of an
3 association vote, or a person related to that person within the
4 third degree by consanguinity or affinity, as determined under
5 Chapter 573, Government Code, may not tabulate or otherwise be
6 given access to the ballots cast in that election or vote except as
7 provided by this section.

8 (b) A person other than a person described by Subsection (a)
9 may tabulate votes in an association election or vote but may not
10 disclose to any other person how an individual voted.

11 (c) Notwithstanding any other provision of this chapter or
12 any other law, a person other than a person who tabulates votes
13 under Subsection (b), including a person described by Subsection
14 (a), may be given access to the ballots cast in the election or vote
15 only as part of a recount process authorized by law.

16 SECTION 4. Section 209.0059, Subsection (a), Section
17 209.00592, and Section 209.00593, Property Code, as added by this
18 Act, apply to a provision in a dedicatory instrument enacted
19 before, on, or after the effective date of this Act.

20 SECTION 5. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 472 passed the Senate on March 17, 2011, by the following vote: Yeas 30, Nays 1; May 26, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 472 passed the House, with amendments, on May 25, 2011, by the following vote: Yeas 76, Nays 69, one present not voting; May 27, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 77, Nays 65, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

AN ACT

relating to the trapping and transport of surplus white-tailed deer.

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

SECTION 1. Subsections (a) through (h) and (k), Section 43.0612, Parks and Wildlife Code, are amended to read as follows:

(a) In this section:

(1) "Property[,—"property] owners' association" has the meaning assigned by Section 202.001, Property Code.

(2) "Qualified individual" means an individual who has a wildlife management plan approved by the department.

(b) The department may issue to a qualified individual, a political subdivision, or a property owners' association a permit authorizing the trapping and transporting of surplus white-tailed deer found on the property owned by the qualified individual or within the boundaries of the political subdivision or the geographic area in which property subject to the property owners' association is located.

(c) Not later than the 30th day before the date of the first planned trapping and transporting of white-tailed deer, a qualified individual, a political subdivision, or a property owners' association shall file with the department an application showing that an overpopulation of white-tailed deer exists on [~~within~~] the property owned by the qualified individual or within the boundaries

1 of the political subdivision or the geographic area in which
2 property subject to the property owners' association is located.
3 If the department issues a permit to a requesting qualified
4 individual, political subdivision, or property owners'
5 association, the permit shall contain specific instructions
6 detailing the location to which the trapped white-tailed deer are
7 to be transported or transplanted.

8 (d) After receipt of an application, the department may
9 issue to the qualified individual, political subdivision, or
10 property owners' association a permit specifying:

11 (1) the location to which trapped white-tailed deer
12 must be transported; and

13 (2) the purpose for which the trapped deer are to be
14 used.

15 (e) The department may deny a qualified individual, a
16 political subdivision, or a property owners' association a permit
17 if no suitable destination for the trapped white-tailed deer
18 exists.

19 (f) A qualified individual, a political subdivision, or a
20 property owners' association trapping and transporting
21 white-tailed deer under this section must make reasonable efforts
22 to ensure:

23 (1) safe and humane handling of trapped white-tailed
24 deer; and

25 (2) minimization of human health and safety hazards in
26 every phase of the trapping and transporting of white-tailed deer.

27 (g) A permit issued under this section may authorize a

1 qualified individual, a political subdivision, or a property
2 owners' association to trap and transport white-tailed deer only
3 between October 1 of a year and March 31 of the following year,
4 unless white-tailed deer found on the property owned by the
5 qualified individual or within the boundaries of [~~in~~] the political
6 subdivision or [~~in~~] the geographic area in which property subject
7 to the property owners' association is located pose a threat to
8 human health or safety, in which case the provision of Subsection
9 (e) does not apply and a permit may authorize the qualified
10 individual, political subdivision, or property owners' association
11 to trap and transport white-tailed deer at any time of the year.

12 (h) A permit issued under this section does not entitle a
13 person to take, trap, or possess white-tailed deer found on any
14 privately owned land without the landowner's written permission,
15 unless the permit holder is the landowner.

16 (k) The commission may adopt rules necessary for the
17 implementation of this chapter, including rules which enhance the
18 opportunity to relocate overpopulation of urban deer and relating
19 to required notification, record-keeping, permit conditions, and
20 the disposition of trapped white-tailed deer. The commission shall
21 adopt rules for determining the circumstances under which a
22 qualified individual, political subdivision, or property owners'
23 association may obtain a permit issued under this section.

24 SECTION 2. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 498 passed the Senate on April 7, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 498 passed the House, with amendments, on May 25, 2011, by the following vote: Yeas 144, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

AN ACT

relating to platting requirements affecting subdivision golf courses in certain counties.

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

SECTION 1. Subsection (a), Section 212.0155, Local Government Code, is amended to read as follows:

(a) This section applies to land located wholly or partly:

(1) in the corporate boundaries of a municipality if the municipality:

(A) [~~(1)~~] has a population of more than 50,000;

and

(B) [~~(2)~~] is located wholly or partly in:

(i) [~~(A)~~] a county with a population of more than three million;

(ii) [~~(B)~~] a county with a population of more than 400,000 [~~275,000~~] that is adjacent to a county with a population of more than three million; or

(iii) [~~(C)~~] a county with a population of more than 1.4 million:

(a) [~~(i)~~] in which two or more municipalities with a population of 300,000 or more are primarily located; and

(b) [~~(ii)~~] that is adjacent to a county with a population of more than two million; or

1 (2) in the corporate boundaries or extraterritorial
2 jurisdiction of a municipality with a population of 1.9 million or
3 more.

4 SECTION 2. The change in law made by Section 212.0155, Local
5 Government Code, as amended by this Act, applies only to an approval
6 of a plat filed:

7 (1) on or after the effective date of this Act; or

8 (2) before the effective date of this Act if the plat
9 has not received final approval before the effective date of this
10 Act.

11 SECTION 3. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1789 passed the Senate on May 5, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1789 passed the House on May 23, 2011, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor