

AN ACT

relating to the operation of property owners' associations.

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

SECTION 1. Section 551.0015(a), Government Code, is amended to read as follows:

(a) A property owners' association is subject to this chapter in the same manner as a governmental body:

(1) if:

(A) [~~(1)~~] membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 2.8 million or more or in a county adjacent to a county with a population of 2.8 million or more;

(B) [~~(2)~~] the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(C) [~~(3)~~] the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution; or

(2) if the property owners' association:

(A) provides maintenance, preservation, and architectural control of residential and commercial property

1 within a defined geographic area in a county with a population of
2 2.8 million or more or in a county adjacent to a county with a
3 population of 2.8 million or more; and

4 (B) is a corporation that:

5 (i) is governed by a board of trustees who
6 may employ a general manager to execute the association's bylaws
7 and administer the business of the corporation;

8 (ii) does not require membership in the
9 corporation by the owners of the property within the defined area;
10 and

11 (iii) was incorporated before January 1,
12 2006.

13 SECTION 2. Section 552.0036, Government Code, is amended to
14 read as follows:

15 Sec. 552.0036. CERTAIN PROPERTY OWNERS' ASSOCIATIONS
16 SUBJECT TO LAW. A property owners' association is subject to this
17 chapter in the same manner as a governmental body:

18 (1) if:

19 (A) [~~(1)~~] membership in the property owners'
20 association is mandatory for owners or for a defined class of owners
21 of private real property in a defined geographic area in a county
22 with a population of 2.8 million or more or in a county adjacent to a
23 county with a population of 2.8 million or more;

24 (B) [~~(2)~~] the property owners' association has
25 the power to make mandatory special assessments for capital
26 improvements or mandatory regular assessments; and

27 (C) [~~(3)~~] the amount of the mandatory special or

1 regular assessments is or has ever been based in whole or in part on
2 the value at which the state or a local governmental body assesses
3 the property for purposes of ad valorem taxation under Section 20,
4 Article VIII, Texas Constitution; or

5 (2) if the property owners' association:

6 (A) provides maintenance, preservation, and
7 architectural control of residential and commercial property
8 within a defined geographic area in a county with a population of
9 2.8 million or more or in a county adjacent to a county with a
10 population of 2.8 million or more; and

11 (B) is a corporation that:

12 (i) is governed by a board of trustees who
13 may employ a general manager to execute the association's bylaws
14 and administer the business of the corporation;

15 (ii) does not require membership in the
16 corporation by the owners of the property within the defined area;
17 and

18 (iii) was incorporated before January 1,
19 2006.

20 SECTION 3. Section 201.001(b), Property Code, is amended to
21 read as follows:

22 (b) The provisions of this chapter relating to extension of
23 the term of, renewal of, or creation of restrictions do not apply to
24 a subdivision if, by the express terms of the instrument creating
25 existing restrictions, some or all of the restrictions affecting
26 the real property within the subdivision provide:

27 (1) for automatic extensions of the term of the

1 restrictions for an indefinite number of successive specified
2 periods of at least 10 years subject to a right of waiver or
3 termination, in whole or in part, by a specified percentage of less
4 than 50 percent plus one of the owners of real property interests in
5 the subdivision, as set forth in the instrument creating the
6 restrictions; or

7 (2) for an indefinite number of successive extensions
8 of at least 10 years of the term of the restrictions by written and
9 filed agreement of a specified percentage of less than 50 percent
10 plus one of the owners of real property interests in the
11 subdivision, as authorized by the instrument creating the
12 restrictions.

13 SECTION 4. Section 201.004(a), Property Code, is amended to
14 read as follows:

15 (a) A petition may be filed under this chapter to:
16 (1) extend or renew an unexpired restriction;
17 (2) [~~to~~] create a restriction;
18 (3) [~~or to~~] add to or modify an existing restriction;
19 or
20 (4) modify an existing provision in an instrument
21 creating a restriction that provides for extension of those
22 restrictions.

23 SECTION 5. Section 204.003, Property Code, is amended to
24 read as follows:

25 Sec. 204.003. APPLICATION OF PROVISIONS OF RESTRICTIVE
26 COVENANTS [PREVAIL] IN CERTAIN CIRCUMSTANCES. (a) An express
27 designation in a document creating restrictions applicable to a

1 residential real estate subdivision that provides for the extension
2 of, addition to, or modification of existing restrictions by a
3 designated number of owners of real property in the subdivision
4 prevails over the provisions of this chapter.

5 (b) A document creating restrictions that provides for the
6 extension or renewal of restrictions and does not provide for
7 modification or amendment of restrictions may be modified under
8 this chapter, including modifying the provision that provides for
9 extension or renewal of the restrictions.

10 SECTION 6. Section 209.005, Property Code, is amended by
11 adding Subsection (a-1) to read as follows:

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

19 SECTION 7. Section 209.003(b), Property Code, is amended to
20 read as follows:

21 (b) Except as otherwise provided by this chapter, this
22 ~~[This]~~ chapter applies only to a property owners' association that
23 requires mandatory membership in the association for all or a
24 majority of the owners of residential property within the
25 subdivision subject to the association's dedicatory instruments.

26 SECTION 8. Chapter 209, Property Code, is amended by adding
27 Section 209.0055 to read as follows:

1 Sec. 209.0055. VOTING. (a) This section applies only to a
2 property owners' association that:

3 (1) provides maintenance, preservation, and
4 architectural control of residential and commercial property
5 within a defined geographic area in a county with a population of
6 2.8 million or more or in a county adjacent to a county with a
7 population of 2.8 million or more; and

8 (2) is a corporation that:

9 (A) is governed by a board of trustees who may
10 employ a general manager to execute the association's bylaws and
11 administer the business of the corporation;

12 (B) does not require membership in the
13 corporation by the owners of the property within the defined area;
14 and

15 (C) was incorporated before January 1, 2006.

16 (b) A property owners' association described by Subsection
17 (a) may not bar a property owner from voting in an association
18 election solely based on the fact that:

19 (1) there is a pending enforcement action against the
20 property owner; or

21 (2) the property owner owes the association any
22 delinquent assessments, fees, or fines.

23 SECTION 9. (a) Section 551.0015, Government Code, as
24 amended by this Act, applies only to a property owners' association
25 meeting that is held on or after September 1, 2007. A property
26 owners' association meeting that is held before September 1, 2007,
27 is governed by the law in effect at the time the meeting was held,

1 and that law is continued in effect for that purpose.

2 (b) Section 552.0036, Government Code, as amended by this
3 Act, applies only to a request for records or information made to a
4 property owners' association on or after September 1, 2007. A
5 request for records or information that is made before September 1,
6 2007, is governed by the law in effect at the time the request was
7 made, and that law is continued in effect for that purpose.

8 (c) Section 209.005, Property Code, as amended by this Act,
9 applies only to a request for access to records or information made
10 to a property owners' association on or after September 1, 2007. A
11 request for access to records or information that is made before
12 September 1, 2007, is governed by the law in effect at the time the
13 request was made, and that law is continued in effect for that
14 purpose.

15 SECTION 10. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 3674 was passed by the House on May 4, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3674 on May 25, 2007, 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. 3674 on May 27, 2007, by the following vote: Yeas 142, Nays 1, 2 present, not voting.

Chief Clerk of the House

H.B. No. 3674

I certify that H.B. No. 3674 was passed by the Senate, with amendments, on May 23, 2007, 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. 3674 on May 27, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor