

By: \_\_\_\_\_ .B. No. \_\_\_\_\_

Substitute the following for \_\_\_\_B. No. \_\_\_\_\_:

By: \_\_\_\_\_ C.S.\_\_\_\_B. No. \_\_\_\_\_

A BILL TO BE ENTITLED

AN ACT

relating to real property that is subject to restrictive covenants,  
including the operation of property owners' associations of  
subdivisions that are subject to restrictive covenants, and to  
certain foreclosure actions.

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

SECTION 1. Subsection (a), Section 5.006, Property Code, is  
amended to read as follows:

(a) In an action based on breach of a restrictive covenant  
pertaining to real property or a statute pertaining to real  
property subject to a restrictive covenant or to restrictive  
covenants to which real property is subject, the court may ~~[shall]~~  
allow to a prevailing party ~~[who asserted the action]~~ reasonable  
attorney's fees in addition to the party's costs and claim.

SECTION 2. 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:

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

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

13 You are obligated to pay assessments to the property owners'  
14 association. The amount of the assessments is subject to change.  
15 Your failure to pay the assessments could result in enforcement of  
16 the association's ~~[a]~~ lien on and the foreclosure of your property.

17 Section 207.003, Property Code, entitles an owner to receive  
18 copies of any document that governs the establishment, maintenance,  
19 or operation of a subdivision, including, but not limited to,  
20 restrictions, bylaws, rules and regulations, and a resale  
21 certificate from a property owners' association. A resale  
22 certificate contains information including, but not limited to,  
23 statements specifying the amount and frequency of regular  
24 assessments and the style and cause number of lawsuits to which the  
25 property owners' association is a party, other than lawsuits  
26 relating to unpaid ad valorem taxes of an individual member of the  
27 association. These documents must be made available to you by the

property owners' association or the association's agent on your request or the seller's request.

Date: \_\_\_\_\_

Signature of Purchaser

(a-1) The second paragraph of the notice prescribed by Subsection (a) must be in bold print and underlined.

(f) On the purchaser's request for a resale certificate from the property owners' association or the association's agent, the association or its agent shall promptly deliver a copy of a current resale certificate issued for the property under Chapter 207. If a resale certificate that meets the requirements of this subsection has not been issued for the property, the seller shall request the association or its agent to issue a resale certificate under Chapter 207, and the association or its agent shall promptly prepare and deliver a copy of the resale certificate to the purchaser.

(g) The purchaser shall pay the fee to the property owners' association or its agent for issuing the resale certificate unless otherwise agreed by the purchaser and seller of the property. The property owners' association may not process a payment for a resale certificate requested under Chapter 207 until the certificate is available for delivery. The association may not charge a fee if the certificate is not provided in the time prescribed by Section 207.003(a).

SECTION 3. Section 51.002, Property Code, is amended by adding Subsection (i) to read as follows:

(i) Notice served under Subsection (b)(3) or (d) must state

1 the name and address of the sender of the notice and contain a  
2 statement that is conspicuous, printed in boldface or underlined  
3 type, and substantially similar to the following: "Assert and  
4 protect your rights as a member of the armed forces of the United  
5 States. If you are or your spouse is serving on active military  
6 duty, including active military duty as a member of the Texas  
7 National Guard or the National Guard of another state or as a member  
8 of a reserve component of the armed forces of the United States,  
9 please send written notice of the active duty military service to  
10 the sender of this notice immediately."

11 SECTION 4. Subsection (a), Section 51.015, Property Code,  
12 is amended by adding Subdivision (1-a) to read as follows:

13 (1-a) "Assessment" and "assessments" have the  
14 meanings assigned by Sections 82.113(a) and 209.002, as applicable.

15 SECTION 5. Subsection (b), Section 51.015, Property Code,  
16 is amended to read as follows:

17 (b) This section applies only to an obligation:

18 (1) that is secured by a mortgage, deed of trust, or  
19 other contract lien, including a lien securing payment of a lawful  
20 assessment or assessments, as applicable, on real property or  
21 personal property that is a dwelling owned by a military  
22 servicemember;

23 (2) that originates before the date on which the  
24 servicemember's active duty military service commences; and

25 (3) for which the servicemember is still obligated.

26 SECTION 6. Subdivision (1), Section 202.001, Property Code,  
27 is amended to read as follows:

1           (1) "Dedictory instrument" means each document  
2 governing ~~[instrument covering]~~ the establishment, maintenance, or  
3 ~~[and]~~ operation of a residential subdivision, planned unit  
4 development, condominium or townhouse regime, or any similar  
5 planned development. The term includes a declaration or similar  
6 instrument subjecting real property to:

7           (A) restrictive covenants, bylaws, or similar  
8 instruments governing the administration or operation of a property  
9 owners' association;

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

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

14       SECTION 7. Subsection (c), Section 202.004, Property Code,  
15 is amended to read as follows:

16       (c) For a violation of a restrictive covenant of a property  
17 owners' association that is a mixed-use master association that  
18 existed before January 1, 1974, and that does not have the authority  
19 under a dedicatory instrument or other governing document to impose  
20 finer, a [A] court may assess civil damages ~~[for the violation of a~~  
21 ~~restrictive covenant]~~ in an amount not to exceed \$200 for each day  
22 of the violation.

23       SECTION 8. Section 202.006, Property Code, is amended to  
24 read as follows:

25       Sec. 202.006. PUBLIC RECORDS. (a) A property owners'  
26 association shall file all ~~[the]~~ dedicatory instruments  
27 ~~[instrument]~~ in the real property records of each county in which

1 the property to which the dedicatory instruments relate [~~instrument~~  
2 ~~relates~~] is located.

3 (b) A dedicatory instrument has no effect until the  
4 instrument is filed in accordance with this section and may not be  
5 enforced against a property owner who purchased the property before  
6 the dedicatory instrument was filed unless the property owner  
7 agrees to comply with the subsequently filed dedicatory instrument.

8 SECTION 9. Chapter 202, Property Code, is amended by adding  
9 Sections 202.011, 202.012, 202.013, and 202.014 to read as follows:

10 Sec. 202.011. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In  
11 this section, "development period" means a period stated in a  
12 declaration during which a declarant reserves:

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

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

17 (b) To the extent a restrictive covenant provides a right of  
18 first refusal for the sale or lease of a residential unit or  
19 residential lot in favor of the property owners' association or the  
20 association's members, the covenant is void.

21 (c) This section does not apply to a restrictive covenant  
22 that provides a right of first refusal in favor of a developer or  
23 builder during the development period.

24 Sec. 202.012. REGULATION OF SOLAR ENERGY DEVICES. (a) In  
25 this section, "solar energy device" has the meaning assigned by  
26 Section 171.107, Tax Code.

27 (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 device that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

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

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

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

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

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

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

(A) extends higher than the roofline;

(B) is located in an area other than an area designated by the property owners' association, unless the alternate location increases the estimated annual energy production of the device, as determined by using a publicly available modeling tool provided by the National Renewable Energy

1 Laboratory, by more than 10 percent above the energy production of  
2 the device if located in an area designated by the property owners'  
3 association;

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

6 (D) has a frame, a support bracket, or visible  
7 pipng or wiring that is not in a silver, bronze, or black tone  
8 commonly available in the marketplace;

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

11 (7) as installed:

12 (A) conflicts with the manufacturer's  
13 installation requirements; or

14 (B) voids material warranties; or

15 (8) was installed without prior approval by a  
16 committee created in a dedicatory instrument for such purposes that  
17 provides decisions within a reasonable period or within a period  
18 specified in the dedicatory instrument.

19 (e) A committee described by Subsection (d)(8) may not  
20 withhold approval for installation of a solar energy device that  
21 meets or exceeds the minimum requirements of a dedicatory  
22 instrument.

23 Sec. 202.013. REGULATION OF CERTAIN ROOFING MATERIALS. A  
24 property owners' association may not include or enforce a provision  
25 in a dedicatory instrument that prohibits or restricts a property  
26 owner who is otherwise authorized to install shingles on the roof of  
27 the owner's property from installing shingles that:



1           (1) are designed primarily to:

2                   (A) be wind and hail resistant;

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

5                   (C) provide solar generation capabilities; and

6           (2) when installed:

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

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

11                   (C) match the aesthetics of the property  
12 surrounding the owner's property.

13           Sec. 202.014. RESTRICTIONS REQUIRING CAPITAL IMPROVEMENTS.

14 (a) A dedicatory instrument may not be amended to retroactively  
15 require a person who owns property subject to the dedicatory  
16 instrument at the time the amendment is adopted to make a capital  
17 improvement to the owner's property that is not required before the  
18 amendment.

19           (b) For the purposes of this section, "capital improvement"  
20 means items such as additional tree plantings, additional sodding,  
21 fence construction, hardscape installation, new construction, or  
22 any similar capital improvement. The term does not include repair  
23 or maintenance of existing improvements or the removal of  
24 conditions that are in violation of a dedicatory instrument.

25           SECTION 10. Subsections (a), (b), and (c), Section 207.003,  
26 Property Code, are amended to read as follows:

27           (a) Not later than the 10th day after the date a written

1 request for subdivision information is received from an owner,  
2 owner's agent, or title insurance company or its agent acting on  
3 behalf of the owner, the property owners' association shall deliver  
4 to the owner, owner's agent, or title insurance company or its  
5 agent:

6 (1) a current copy of the restrictions applying to the  
7 subdivision;

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

10 (3) a current resale certificate that complies with  
11 Subsection (b).

12 (b) A current resale certificate under Subsection (a) must  
13 contain:

14 (1) a statement of any right of first refusal or other  
15 restraint contained in the restrictions or restrictive covenants  
16 that restricts the owner's right to transfer the owner's property;

17 (2) the frequency and amount of any regular  
18 assessments;

19 (3) the amount and purpose of any special assessment  
20 that has been approved before and is due after the date the resale  
21 certificate is prepared;

22 (4) the total of all amounts due and unpaid to the  
23 property owners' association that are attributable to the owner's  
24 property;

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

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

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

5           (8) the total of any unsatisfied judgments against the  
6 property owners' association;

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

11           (10) a copy of a certificate of insurance showing the  
12 property owners' association's property and liability insurance  
13 relating to the common areas and common facilities;

14           (11) a description of any conditions on the owner's  
15 property that the property owners' association board has actual  
16 knowledge are in violation of the restrictions applying to the  
17 subdivision or the bylaws or rules of the property owners'  
18 association;

19           (12) a summary or copy of notices received by the  
20 property owners' association from any governmental authority  
21 regarding health or housing code violations existing on the  
22 preparation date of the certificate relating to the owner's  
23 property or any common areas or common facilities owned or leased by  
24 the property owners' association;

25           (13) the amount of any administrative transfer fee  
26 charged by the property owners' association for a change of  
27 ownership of property in the subdivision;

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

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

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

9           (c) A property owners' association may charge a reasonable  
10 fee to assemble, copy, and deliver the information required by this  
11 section and may charge a reasonable fee to prepare and deliver an  
12 update of a resale certificate under Subsection (f). A purchaser  
13 requesting a resale certificate under Section 5.012 or on whose  
14 behalf the resale certificate is requested shall pay the fees  
15 charged under this subsection unless otherwise agreed by the  
16 purchaser and seller of the property. The prescribed charges shall  
17 be presumed to be reasonable if they do not exceed costs that would  
18 be applicable for an item under 1 T.A.C. Section 70.3.

19           SECTION 11. Chapter 207, Property Code, is amended by  
20 adding Section 207.006 to read as follows:

21           Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED. A  
22 property owners' association shall make dedicatory instruments  
23 relating to the association or subdivision and filed in the county  
24 deed records available on a website if the association has, or a  
25 management company on behalf of the association maintains, a  
26 publicly accessible website.

27           SECTION 12. Section 209.003, Property Code, is amended by

1 adding Subsection (e) to read as follows:

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

7 (1) Section 209.005(b);

8 (2) Section 209.0056;

9 (3) Section 209.0057;

10 (4) Section 209.0058;

11 (5) Section 209.00592; and

12 (6) Section 209.0062.

13 SECTION 13. Chapter 209, Property Code, is amended by  
14 adding Section 209.0041 to read as follows:

15 Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY  
16 INSTRUMENTS. (a) This section applies to a residential  
17 subdivision in which property owners are subject to mandatory  
18 membership in a property owners' association.

19 (b) This section does not apply to a property owners'  
20 association that is subject to Chapter 552, Government Code, by  
21 application of Section 552.0036, Government Code.

22 (c) This section does not apply to the amendment of a  
23 declaration during a development period, as defined by Section  
24 202.011.

25 (d) This section applies to a dedicatory instrument  
26 regardless of the date on which the dedicatory instrument was  
27 created.

1       (e) This section supersedes any contrary requirement in a  
2 dedicatory instrument.

3       (f) To the extent of any conflict with another provision of  
4 this title, this section prevails.

5       (g) Except as provided by this subsection, a declaration may  
6 be amended only by a vote of 67 percent of the total votes allocated  
7 to property owners in the property owners' association, in addition  
8 to any governmental approval required by law. If the declaration  
9 contains a lower percentage, the percentage in the declaration  
10 controls.

11       (h) A bylaw may not be amended to conflict with the  
12 declaration.

13       (i) All ballots cast in a vote that results in an amendment  
14 to a restrictive covenant or bylaw are records of the association  
15 subject to inspection under Section 209.005.

16       SECTION 14. Section 209.005, Property Code, is amended to  
17 read as follows:

18       Sec. 209.005. ASSOCIATION RECORDS. (a) This section does  
19 not apply to a property owners' association that is subject to  
20 Chapter 552, Government Code, by application of Section 552.0036,  
21 Government Code.

22       (b) A property owners' association shall make the books and  
23 records of the association, including financial records, open to  
24 and reasonably available for examination by ~~to~~ an owner, or a  
25 person designated in a writing signed by the owner as the owner's  
26 agent, attorney, or certified public accountant, in accordance with  
27 this section. An owner is entitled to obtain from the association

1 copies of information contained in the books and records [Section  
2 ~~B, Article 2.23, Texas Non-Profit Corporation Act (Article~~  
3 ~~1396-2.23, Vernon's Texas Civil Statutes)] .~~

4 (c) [~~(a-1)~~ ~~A property owners' association described by~~  
5 ~~Section 552.0036(2), Government Code, shall make the books and~~  
6 ~~records of the association, including financial records,~~  
7 ~~reasonably available to any person requesting access to the books~~  
8 ~~or records in accordance with Chapter 552, Government Code.~~  
9 ~~Subsection (a) does not apply to a property owners' association to~~  
10 ~~which this subsection applies.~~

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

14 [~~(1)~~] records of the association and are not[+]  
15 [~~(2)~~] subject to inspection by the owner[+] or  
16 [~~(3)~~] subject to production in a legal proceeding. If  
17 a document in an attorney's files and records relating to the  
18 association would be responsive to a legally authorized request to  
19 inspect or copy association documents, the document shall be  
20 produced by using the copy from the attorney's files and records if  
21 the association has not maintained a separate copy of the document.  
22 This subsection does not require production of a document that  
23 constitutes attorney work product or that is privileged as an  
24 attorney-client communication.

25 (d) An owner or the owner's authorized representative  
26 described by Subsection (b) must submit a written request for  
27 access or information under Subsection (b) by certified mail or

1 another method providing evidence of mailing or delivery, with  
2 sufficient detail describing the property owners' association's  
3 books and records requested, to the mailing address of the  
4 association or authorized representative as reflected on the most  
5 current management certificate filed under Section 209.004. The  
6 request must contain an election either to inspect the books and  
7 records before obtaining copies or to have the property owners'  
8 association forward copies of the requested books and records and:

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

15 (2) if copies of identified books and records are  
16 requested, the association shall, to the extent those books and  
17 records are in the possession, custody, or control of the  
18 association, produce the requested books and records for the  
19 requesting party on or before the 10th business day after the date  
20 the association receives the request, except as otherwise provided  
21 by this section.

22 (e) If the property owners' association is unable to produce  
23 the books or records requested under Subsection (d) on or before the  
24 10th business day after the date the association receives the  
25 request, the association must provide to the requestor written  
26 notice that:

27 (1) informs the requestor of the reason that the



1 association is unable to produce the information on or before the  
2 10th business day after the date the association received the  
3 request; and

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

8 (f) If an inspection is requested or required, the  
9 inspection shall take place at a mutually agreed on time during  
10 normal business hours, and the requesting party shall identify the  
11 books and records for the property owners' association to copy and  
12 forward to the requesting party.

13 (g) A property owners' association may produce books and  
14 records requested under this section in hard copy, electronic, or  
15 other format reasonably available to the association.

16 (h) A property owners' association board must adopt a  
17 records production and copying policy that prescribes the actual  
18 costs the association will charge for the compilation, production,  
19 and reproduction of information requested under this section. The  
20 prescribed charges may include all reasonable costs of materials,  
21 labor, and overhead but may not exceed costs that would be  
22 applicable for an item under 1 T.A.C. Section 70.3. The policy  
23 required by this subsection must be recorded as a dedicatory  
24 instrument in accordance with Section 202.006. An association may  
25 not charge an owner for the compilation, production, or  
26 reproduction of information requested under this section unless the  
27 policy prescribing those costs has been recorded as required by

1 this subsection. An owner is responsible for costs related to the  
2 compilation, production, and reproduction of the requested  
3 information in the amounts prescribed by the policy adopted under  
4 this subsection. The association may require advance payment of  
5 the costs of compilation, production, and reproduction of the  
6 requested information.

7 (i) A property owners' association must estimate costs  
8 under this section using amounts prescribed by the policy adopted  
9 under Subsection (h).

10 (j) Except as provided by Subsection (k) and to the extent  
11 the information is provided in the meeting minutes, the property  
12 owners' association is not required to release or allow inspection  
13 of any books or records that identify the dedicatory instrument  
14 violation history of an individual owner of an association, an  
15 owner's personal financial information, including records of  
16 payment or nonpayment of amounts due the association, an owner's  
17 contact information, other than the owner's address, or information  
18 related to an employee of the association, including personnel  
19 files. Information may be released in an aggregate or summary  
20 manner that would not identify an individual property owner.

21 (k) The books and records described by Subsection (j) shall  
22 be released or made available for inspection if:

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

26 (2) a court orders the release of the books and records  
27 or orders that the books and records be made available for

1 inspection.

2 (1) A property owners' association composed of more than 14  
3 lots shall adopt and comply with a document retention policy that  
4 includes, at a minimum, the following requirements:

5 (1) certificates of formation, bylaws, restrictive  
6 covenants, and all amendments to the certificates of formation,  
7 bylaws, and covenants shall be retained permanently;

8 (2) financial books and records shall be retained for  
9 seven years;

10 (3) account records of current owners shall be  
11 retained for five years;

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

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

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

18 (m) A member of a property owners' association who is denied  
19 access to or copies of association books or records to which the  
20 member is entitled under this section may file a petition with the  
21 justice of the peace of a justice precinct in which all or part of  
22 the property that is governed by the association is located  
23 requesting relief in accordance with this subsection. If the  
24 justice of the peace finds that the member is entitled to access to  
25 or copies of the records, the justice of the peace may grant one or  
26 more of the following remedies:

27 (1) a judgment ordering the property owners'

1 association to release or allow access to the books or records;

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

5 (3) a judgment authorizing the owner or the owner's  
6 assignee to deduct the amounts awarded under Subdivision (2) from  
7 any future regular or special assessments payable to the property  
8 owners' association.

9 (n) If the property owners' association prevails in an  
10 action under Subsection (m), the association is entitled to a  
11 judgment for court costs and attorney's fees incurred by the  
12 association in connection with the action.

13 (o) On or before the 10th business day before the date a  
14 person brings an action against a property owners' association  
15 under this section, the person must send written notice to the  
16 association of the person's intent to bring the action. The notice  
17 must:

18 (1) be sent certified mail, return receipt requested,  
19 or delivered by the United States Postal Service with signature  
20 confirmation service; and

21 (2) describe with sufficient detail the books and  
22 records being requested.

23 (p) For the purposes of this section, "business day" means a  
24 day other than Saturday, Sunday, or a state or federal holiday.

25 SECTION 15. Chapter 209, Property Code, is amended by  
26 adding Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059,  
27 209.00591, 209.00592, and 209.00593 to read as follows:

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

5       (b) In this section, "board meeting" means a deliberation  
6 between a quorum of the voting board of the property owners'  
7 association, or between a quorum of the voting board and another  
8 person, during which property owners' association business or  
9 policies are considered or during which the board takes formal  
10 action. The term does not include the gathering of a quorum of the  
11 board at a social function unrelated to the business of the  
12 association or the attendance by a quorum of the board at a  
13 regional, state, or national convention, ceremonial event, or press  
14 conference, if formal action is not taken and any discussion of  
15 association business is incidental to the social function,  
16 convention, ceremonial event, or press conference.

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

1 privacy of individual owners, violating any privilege, or  
2 disclosing information that was to remain confidential at the  
3 request of the affected parties. The oral summary must include a  
4 general explanation of expenditures approved in executive session.

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

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

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

22 (1) mailed to each property owner not later than the  
23 10th day or earlier than the 60th day before the date of the  
24 meeting; or

25 (2) provided at least 72 hours before the start of the  
26 meeting by:

27 (A) posting the notice in a conspicuous manner

1 reasonably designed to provide notice to property owners'  
2 association members:

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

7 (ii) on any Internet website or other  
8 internet media maintained by the association; and

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

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

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

24 (h) A board may meet by any method of communication,  
25 including electronic and telephonic, without prior notice to owners  
26 under Subsection (e), if each director may hear and be heard by  
27 every other director, to consider a reasonably unforeseen emergency

1 or urgent necessity that requires immediate board action. Any  
2 action taken without notice to owners under Subsection (e) must be  
3 recorded by an audio device and kept as part of the association  
4 records and shall be summarized orally, including an explanation of  
5 any known actual or estimated expenditures approved at the meeting,  
6 and documented in the minutes of the next regular or special board  
7 meeting. The board may not, without prior notice to owners under  
8 Subsection (e), consider or vote on:

9 (1) fines;  
10 (2) damage assessments;  
11 (3) initiation of foreclosure actions;  
12 (4) initiation of enforcement actions, excluding  
13 temporary restraining orders or violations involving a threat to  
14 health or safety;

15 (5) increases in assessments;  
16 (6) levying of special assessments;  
17 (7) appeals from a denial of architectural control  
18 approval; or

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

22 (i) This section applies to a meeting of a property owners'  
23 association board during the development period, as defined by  
24 Section 202.011, only if the meeting is conducted for the purpose  
25 of:

26 (1) adopting or amending the governing documents,  
27 including declarations, bylaws, rules, and regulations of the



1 association;

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

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

7 (4) changing the voting rights of members of the  
8 association.

9 Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

10 (a) Not later than the 10th day or earlier than the 60th day before  
11 the date of an election or vote, a property owners' association  
12 shall give written notice of the election or vote to:

13 (1) each owner of property in the property owners'  
14 association, for purposes of an association-wide election or vote;  
15 or

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

23 (b) This section supersedes any contrary requirement in a  
24 dedicatory instrument.

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

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

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

9               (1) by certified mail, return receipt requested, or by  
10 delivery by the United States Postal Service with signature  
11 confirmation service to the property owners' association's mailing  
12 address on the latest management certificate filed under Section  
13 209.004; or

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

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

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

27              (2) is:

1                   (A) a current or former:

2                   (i) county judge;

3                   (ii) county elections administrator;

4                   (iii) justice of the peace; or

5                   (iv) county voter registrar; or

6                   (B) a person agreed on by the association and the  
7 persons requesting the recount.

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

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

21           (b) Electronic votes cast under Section 209.00592  
22 constitute written and signed ballots.

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

25           Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a  
26 dedicatory instrument that would disqualify a property owner from  
27 voting in a property owners' association election of board members

1 or on any matter concerning the rights or responsibilities of the  
2 owner is void.

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

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

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

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

1 created and made subject to the declaration, at least one-third of  
2 the board members must be elected by owners other than the declarant  
3 not later than the 10th anniversary of the date the declaration was  
4 recorded.

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

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

9 (2) by absentee ballot in accordance with this  
10 section; or

11 (3) by electronic ballot in accordance with this  
12 section.

13 (b) An absentee or electronic ballot:

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

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

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

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

27 (1) an absentee ballot that contains each proposed

1 action and provides an opportunity to vote for or against each  
2 proposed action;

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

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

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

16 (1) given by:

17 (A) e-mail;

18 (B) facsimile; or

19 (C) posting on an Internet website;

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

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

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

1       (f) This section supersedes any contrary provision in a  
2 dedicatory instrument.

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

6       Sec. 209.00593. ELECTION OF BOARD MEMBERS. (a) Any board  
7 member whose term has expired must be elected by owners who are  
8 members of the property owners' association. A board member may be  
9 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 only until the end of the  
12 unexpired term of the 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, as defined by Section  
20 202.011.

21       (e) This section does not apply to a representative board  
22 whose members or delegates are elected or appointed by  
23 representatives of a property owners' association who are elected  
24 by owner members of a property owners' association.

25       SECTION 16. Subsection (b), Section 209.006, Property Code,  
26 is amended to read as follows:

27       (b) The notice must:

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

4           (2) inform the owner that the owner:

5                 (A) is entitled to a reasonable period to cure  
6 the violation and avoid the fine or suspension unless the owner was  
7 given notice and a reasonable opportunity to cure a similar  
8 violation within the preceding six months; and

9                 (B) may request a hearing under Section 209.007  
10 on or before the 30th day after the date notice was delivered to the  
11 owner [~~receives the notice~~].

12         SECTION 17. Chapter 209, Property Code, is amended by  
13 adding Sections 209.0061, 209.0062, 209.0063, and 209.0064 to read  
14 as follows:

15         Sec. 209.0061. ASSESSMENT OF FINES. (a) A fine assessed  
16 by the property owners' association must be reasonable in the  
17 context of the nature and frequency of the violation and the effect  
18 of the violation on the subdivision as a whole. If the association  
19 allows fines for a continuing violation to accumulate against a lot  
20 or an owner, the association must establish a reasonable maximum  
21 fine amount for a continuing violation at which point the total fine  
22 amount is capped.

23         (b) If a lot occupant other than the owner violates a  
24 provision of the dedicatory instrument, the property owners'  
25 association, in addition to exercising any of the association's  
26 powers against the owner, may assess a fine directly against the  
27 nonowner occupant in the same manner as provided for an owner but



1 may not require payment from both the owner and a nonowner occupant  
2 for the same violation.

3 (c) If the property owners' association assesses a fine  
4 against a nonowner occupant under this section, the notice  
5 provisions of Section 209.006 and the hearing provisions of Section  
6 209.007 apply to the nonowner occupant in the same manner as those  
7 provisions apply to an owner.

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

18 (b) The minimum term for a payment plan offered by a  
19 property owners' association is three months.

20 (c) A property owners' association is not required to allow  
21 a payment plan for any amount that extends more than 18 months from  
22 the date of the owner's request for a payment plan or to enter into a  
23 payment plan with an owner who failed to honor the terms of a  
24 previous payment plan during the two years following the owner's  
25 default under the previous payment plan.

26 (d) A property owners' association shall file the  
27 association's guidelines under this section in the real property

1 records of each county in which the subdivision is located.

2 (e) A property owners' association's failure to file as  
3 required by this section the association's guidelines in the real  
4 property records of each county in which the subdivision is located  
5 does not affect a property owner's right to an alternative payment  
6 schedule by which the owner may make partial payments to the  
7 property owners' association for delinquent regular or special  
8 assessments or any other amount owed to the association without  
9 accruing additional monetary penalties, as defined by Subsection  
10 (a).

11 Sec. 209.0063. PRIORITY OF PAYMENTS. A payment received by  
12 a property owners' association from the owner shall be applied to  
13 the owner's debt in the following order of priority:

14 (1) any delinquent assessment;  
15 (2) any current assessment;  
16 (3) any attorney's fees or third party collection  
17 costs incurred by the association associated solely with  
18 assessments or any other charge that could provide the basis for  
19 foreclosure;

20 (4) any fines assessed by the association;  
21 (5) any attorney's fees incurred by the association  
22 that are not subject to Subdivision (3); and

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

24 Sec. 209.0064. THIRD PARTY COLLECTIONS. Before a property  
25 owners' association may assess the account of an owner for  
26 reimbursement of reasonable attorney's fees and other reasonable  
27 costs payable by the association to another party or billed by a

1 third party to the association on a contingency basis and that are  
2 related to collecting assessments or other amounts owed the  
3 association by the owner, the association must provide a notice to  
4 the owner by certified mail, return receipt requested, that:

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

7 (2) describes the options the owner has to avoid  
8 liability for attorney's fees or other costs related to collection  
9 of those amounts, including information regarding the availability  
10 of a payment plan through the association; and

11 (3) provides a period of at least 30 days for the owner  
12 to cure the delinquency before further action is taken by the  
13 association.

14 SECTION 18. Section 209.009, Property Code, is amended to  
15 read as follows:

16 Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN  
17 CIRCUMSTANCES. A property owners' association may not foreclose a  
18 property owners' association's assessment lien if the debt securing  
19 the lien consists solely of:

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

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

23 (3) amounts added to the owner's account as an  
24 assessment under Section 209.005(h) or 209.0064.

25 SECTION 19. Chapter 209, Property Code, is amended by  
26 adding Sections 209.0091, 209.0092, and 209.0093 to read as  
27 follows:

1       Sec. 209.0091. JUDICIAL FORECLOSURE REQUIRED. (a) Except  
2 as provided by Subsection (d) and subject to Section 209.009, a  
3 property owners' association may not foreclose a property owners'  
4 association assessment lien unless the association first obtains a  
5 court order in an application for expedited foreclosure under the  
6 rules adopted by the supreme court under Subsection (b).

7       (b) The supreme court, as an exercise of the court's  
8 authority under Section 74.024, Government Code, shall adopt rules  
9 establishing expedited foreclosure proceedings for use by a  
10 property owners' association in foreclosing an assessment lien of  
11 the association. Except as provided by this section, the rules  
12 adopted under this subsection must be substantially similar to the  
13 rules adopted by the supreme court under Section 50(r), Article  
14 XVI, Texas Constitution.

15       (c) Rules adopted under Subsection (b) must require service  
16 on the record owners of the property of a copy of the notice and  
17 application for foreclosure of the lien by the same methods of  
18 service prescribed for service of citation under Rules 106 through  
19 119, Texas Rules of Civil Procedure.

20       (d) Expedited foreclosure is not required under this  
21 section if the owner of the property that is subject to foreclosure  
22 agrees in writing at the time the foreclosure is sought to waive  
23 expedited foreclosure under this section. A waiver under this  
24 subsection may not be required as a condition of the transfer of  
25 title to real property.

26       Sec. 209.0092. REMOVAL OR ADOPTION OF FORECLOSURE  
27 AUTHORITY. A provision granting a right to foreclose a lien on real

1 property for unpaid amounts due to a property owners' association  
2 may be removed from a dedicatory instrument or adopted in a  
3 dedicatory instrument by a vote of at least 67 percent of the total  
4 votes allocated to property owners in the property owners'  
5 association. Owners holding at least 10 percent of all voting  
6 interests in the property owners' association may petition the  
7 association and require a special meeting to be called for the  
8 purposes of taking a vote for the purposes of this section.

9 Sec. 209.0093. ASSESSMENT LIEN FILING. A lien, lien  
10 affidavit, or other instrument evidencing the nonpayment of  
11 assessments or other charges owed to a property owners' association  
12 and filed in the official public records of a county is a legal  
13 instrument affecting title to real property.

14 SECTION 20. Subsection (a), Section 209.010, Property Code,  
15 is amended to read as follows:

16 (a) A property owners' association that conducts a  
17 foreclosure sale of an owner's lot must send to the lot owner and to  
18 each lienholder of record, not later than the 30th day after the  
19 date of the foreclosure sale:

20 (1) [7] a written notice stating the date and time the  
21 sale occurred and informing the lot owner and each lienholder of  
22 record of the right of the lot owner and lienholder to redeem the  
23 property under Section 209.011; and

24 (2) a copy of Section 209.011.

25 SECTION 21. Chapter 209, Property Code, is amended by  
26 adding Sections 209.014 and 209.015 to read as follows:

27 Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO

1 CALL ANNUAL MEETING. (a) Notwithstanding any provision in a  
2 dedicatory instrument, a board of a property owners' association  
3 shall call an annual meeting of the members of the association.

4 (b) If a board of a property owners' association does not  
5 call an annual meeting of the association members, an owner may  
6 demand that a meeting of the association members be called not later  
7 than the 30th day after the date of the owner's demand. The owner's  
8 demand must be made in writing and sent by certified mail, return  
9 receipt requested, to the registered agent of the property owners'  
10 association and to the association at the address for the  
11 association according to the most recently filed management  
12 certificate. A copy of the notice must be sent to each property  
13 owner who is a member of the association.

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

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

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

24 (2) the name and residential address of each committee  
25 member; and

26 (3) the name of the subdivision over which the  
27 property owners' association has jurisdiction under a dedicatory

1 instrument.

2 (e) Each committee member must sign and acknowledge the  
3 notice before a notary or other official authorized to take  
4 acknowledgments.

5 (f) The county clerk shall enter on the notice the date the  
6 notice is filed and record the notice in the county's real property  
7 records.

8 (g) Only one committee in a subdivision may operate under  
9 this section at one time. If more than one committee in a  
10 subdivision files a notice, the first committee that files a  
11 notice, after having complied with all other requirements of this  
12 section, is the committee with the power to act under this section.  
13 A committee that does not hold or conduct a successful election  
14 within four months after the date the notice is filed with the  
15 county clerk is dissolved by operation of law. An election held or  
16 conducted by a dissolved committee is ineffective for any purpose  
17 under this section.

18 (h) The election committee may call meetings of the owners  
19 who are members of the property owners' association for the sole  
20 purpose of electing board members. Notice, quorum, and voting  
21 provisions contained in the bylaws of the property owners'  
22 association apply to any meeting called by the election committee.

23 Sec. 209.015. BOARD POWERS. Bylaws adopted by the board of  
24 a property owners' association may not expand the powers of the  
25 association beyond those powers specifically granted in the  
26 declaration. To the extent of any conflict between the bylaws and  
27 any declaration, the declaration prevails.

1           SECTION 22. Subsection (a), Section 211.002, Property Code,  
2 is amended to read as follows:

3           (a) This chapter applies only to a residential real estate  
4 subdivision or any unit or parcel of a subdivision to which another  
5 chapter in this title that provides a procedure under which a  
6 subdivision's restrictions may for general purposes be amended does  
7 not apply [~~located in whole or in part within an unincorporated area~~  
8 ~~of a county if the county has a population of less than 65,000~~].

9           SECTION 23. (a) Subsection (a), Section 5.006, and  
10 Subsection (c), Section 202.004, Property Code, as amended by this  
11 Act, apply only to an action filed on or after the effective date of  
12 this Act. An action filed before the effective date of this Act is  
13 governed by the law in effect immediately before the effective date  
14 of this Act, and that law is continued in effect for that purpose.

15           (b) Section 5.012, Property Code, as amended by this Act,  
16 applies only to a sale of property that occurs on or after the  
17 effective date of this Act. For the purposes of this subsection, a  
18 sale of property occurs before the effective date of this Act if the  
19 executory contract binding the purchaser to purchase the property  
20 is executed before that date. A sale of property that occurs before  
21 the effective date of this Act is governed by the law in effect  
22 immediately before that date, and that law is continued in effect  
23 for that purpose.

24           (c) Section 51.015, Property Code, as amended by this Act,  
25 applies only to the levy of an assessment or assessments as  
26 described by Section 51.015, Property Code, as amended by this Act,  
27 the effective date of which is on or after the effective date of



1 this Act. A levy of an assessment or assessments the effective date  
2 of which is before the effective date of this Act is governed by the  
3 law as it existed immediately before the effective date of this Act,  
4 and that law is continued in effect for that purpose.

5 (d) Section 202.006, Property Code, as amended by this Act,  
6 and Sections 202.011, 202.012, 202.013, and 209.0059 and Subsection  
7 (a), Section 209.00592, Property Code, as added by this Act, apply  
8 to a provision in a dedicatory instrument or a restrictive covenant  
9 enacted before, on, or after the effective date of this Act, except  
10 that any action taken before the effective date of this Act based on  
11 an unfiled dedicatory instrument is not invalidated by Section  
12 202.006, Property Code, as amended by this Act.

13 (e) Sections 207.003 and 209.005, Property Code, as amended  
14 by this Act, apply only to a request for information received by a  
15 property owners' association on or after the effective date of this  
16 Act. A request for information received by a property owners'  
17 association before the effective date of this Act is governed by the  
18 law in effect immediately before the effective date of this Act, and  
19 that law is continued in effect for that purpose.

20 (f) Subsection (1), Section 209.005, Property Code, as  
21 added by this Act, applies only with respect to books and records  
22 generated on or after the effective date of this Act. Books and  
23 records generated before the effective date of this Act are  
24 governed by the law in effect immediately before the effective date  
25 of this Act, and that law is continued in effect for that purpose.

26 (g) Section 209.006, Property Code, as amended by this Act,  
27 applies only to an enforcement action initiated by a property

1 owners' association on or after the effective date of this Act. An  
2 enforcement action initiated before the effective date of this Act  
3 is governed by the law in effect immediately before the effective  
4 date of this Act, and that law is continued in effect for that  
5 purpose.

6 (h) Section 209.0062, Property Code, as added by this Act,  
7 applies only to an assessment or other debt that becomes due on or  
8 after the effective date of this Act. An assessment or other debt  
9 that becomes due before the effective date of this Act is governed  
10 by the law in effect immediately before the effective date of this  
11 Act, and that law is continued in effect for that purpose.

12 (i) Section 209.0063, Property Code, as added by this Act,  
13 applies only to a payment received by a property owners'  
14 association on or after the effective date of this Act. A payment  
15 received by a property owners' association before the effective  
16 date of this Act is governed by the law in effect immediately before  
17 the effective date of this Act, and that law is continued in effect  
18 for that purpose.

19 (j) Section 209.0091, Property Code, as added by this Act,  
20 and Subsection (a), Section 209.010, Property Code, as amended by  
21 this Act, apply only to a foreclosure sale conducted on or after the  
22 effective date of this Act. A foreclosure sale conducted before the  
23 effective date of this Act is governed by the law in effect  
24 immediately before the effective date of this Act, and that law is  
25 continued in effect for that purpose.

26 (k) Section 209.0093, Property Code, as added by this Act,  
27 applies only to an instrument filed on or after January 1, 2012. An

1 instrument filed before January 1, 2012, is governed by the law in  
2 effect on the date the instrument was filed, and that law is  
3 continued in effect for that purpose.

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

7 SECTION 24. Not later than January 1, 2012, each property  
8 owners' association shall present for recording with the county  
9 clerk as prescribed by Section 202.006, Property Code, as amended  
10 by this Act, each dedicatory instrument governing the association  
11 that has not been previously recorded in the real property records  
12 of the county.

13 SECTION 25. Not later than January 1, 2012, the Supreme  
14 Court of Texas shall adopt rules of civil procedure under Section  
15 209.0091, Property Code, as added by this Act.

16 SECTION 26. (a) Except as provided by Subsection (b) of  
17 this section, this Act takes effect January 1, 2012.

18 (b) Subsection (b), Section 209.0091, Property Code, as  
19 added by this Act, takes effect September 1, 2011.