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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)
ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

NOTICE: Not For Use For Condominium Transactions

11-08-2021



6. TITLE POLICY AND SURVEY:

E. TITLE NOTICES:

- object.
- (2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property ☐ is ☐ is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, or 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 may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

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

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association(s) should be used.



**ADDENDUM FOR PROPERTY SUBJECT TO
MANDATORY MEMBERSHIP IN A PROPERTY
OWNERS ASSOCIATION
(NOT FOR USE WITH CONDOMINIUMS)
ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT**

(Street Address and City)

(Name of Property Owners Association, (Association) and Phone Number)

A. SUBDIVISION INFORMATION: "Subdivision Information" means: (i) a current copy of the restrictions applying to the subdivision and bylaws and rules of the Association, and (ii) a resale certificate, all of which are described by Section 207.003 of the Texas Property Code.

(Check only one box):

- ☐ 1. Within _____ days after the effective date of the contract, Seller shall obtain, pay for, and deliver the Subdivision Information to the Buyer. If Seller delivers the Subdivision Information, Buyer may terminate the contract within 3 days after Buyer receives the Subdivision Information or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer. If Buyer does not receive the Subdivision Information, Buyer, as Buyer's sole remedy, may terminate the contract at any time prior to closing and the earnest money will be refunded to Buyer.
- ☐ 2. Within _____ days after the effective date of the contract, Buyer shall obtain, pay for, and deliver a copy of the Subdivision Information to the Seller. If Buyer obtains the Subdivision Information within the time required, Buyer may terminate the contract within 3 days after Buyer receives the Subdivision Information or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer. If Buyer, due to factors beyond Buyer's control, is not able to obtain the Subdivision Information within the time required, Buyer may, as Buyer's sole remedy, terminate the contract within 3 days after the time required or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer.
- ☐ 3. Buyer has received and approved the Subdivision Information before signing the contract. Buyer ☐ does ☐ does not require an updated resale certificate. If Buyer requires an updated resale certificate, Seller, at Buyer's expense, shall deliver it to Buyer within 10 days after receiving payment for the updated resale certificate from Buyer. Buyer may terminate this contract and the earnest money will be refunded to Buyer if Seller fails to deliver the updated resale certificate within the time required.
- ☐ 4. Buyer does not require delivery of the Subdivision Information.

The title company or its agent is authorized to act on behalf of the parties to obtain the Subdivision Information ONLY upon receipt of the required fee for the Subdivision Information from the party obligated to pay.

B. MATERIAL CHANGES. If Seller becomes aware of any material changes in the Subdivision Information, Seller shall promptly give notice to Buyer. Buyer may terminate the contract prior to closing by giving written notice to Seller if: (i) any of the Subdivision Information provided was not true; or (ii) any material adverse change in the Subdivision Information occurs prior to closing, and the earnest money will be refunded to Buyer.

C. FEES AND DEPOSITS FOR RESERVES: Buyer shall pay any and all Association fees, deposits, reserves, and other charges associated with the transfer of the Property not to exceed \$_____ and Seller shall pay any excess. This paragraph does not apply to: (i) regular periodic maintenance fees, assessments, or dues (including prepaid items) that are prorated by Paragraph 13, and (ii) costs and fees provided by Paragraphs A and D.

D. AUTHORIZATION: Seller authorizes the Association to release and provide the Subdivision Information and any updated resale certificate if requested by the Buyer, the Title Company, or any broker to this sale. If Buyer does not require the Subdivision Information or an updated resale certificate, and the Title Company requires information from the Association (such as the status of dues, special assessments, violations of covenants and restrictions, and a waiver of any right of first refusal), ☐ Buyer ☐ Seller shall pay the Title Company the cost of obtaining the information prior to the Title Company ordering the information.

NOTICE TO BUYER REGARDING REPAIRS BY THE ASSOCIATION: The Association may have the sole responsibility to make certain repairs to the Property. If you are concerned about the condition of any part of the Property which the Association is required to repair, you should not sign the contract unless you are satisfied that the Association will make the desired repairs.

Buyer

Seller

Buyer

Seller



The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (www.trec.texas.gov) TREC No. 36-10. This form replaces TREC No. 36-9.



**SUBDIVISION INFORMATION, INCLUDING
RESALE CERTIFICATE FOR PROPERTY SUBJECT TO
MANDATORY MEMBERSHIP IN A PROPERTY OWNERS' ASSOCIATION**
(Chapter 207, Texas Property Code)

Resale Certificate concerning the Property (including any common areas assigned to the Property) located at _____ (Street Address), City of _____, County of _____, Texas, prepared by the property owners' association (Association).

- A. The Property ☐ is ☐ is not subject to a right of first refusal (other than a right of first refusal prohibited by statute) or other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property.
- B. The current regular assessment for the Property is \$_____ per _____.
- C. A special assessment for the Property due after this resale certificate is delivered is \$_____ payable as follows _____ for the following purpose: _____.
- D. The total of all amounts due and unpaid to the Association that are attributable to the Property is \$_____.
- E. The capital expenditures approved by the Association for its current fiscal year are \$_____.
- F. The amount of reserves for capital expenditures is \$_____.
- G. Unsatisfied judgments against the Association total \$_____.
- H. Other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association, there ☐ are ☐ are not any suits pending in which the Association is a party. The style and cause number of each pending suit is: _____.
- I. The Association's board ☐ has actual knowledge ☐ has no actual knowledge of conditions on the Property in violation of the restrictions applying to the subdivision or the bylaws or rules of the Association. Known violations are: _____.
- J. The Association ☐ has ☐ has not received notice from any governmental authority regarding health or building code violations with respect to the Property or any common areas or common facilities owned or leased by the Association. A summary or copy of each notice is attached.
- K. The amount of any administrative transfer fee charged by the Association for a change of ownership of property in the subdivision is \$_____. Describe all fees associated with the transfer of ownership (include a description of each fee, to whom each fee is payable and the amount of each fee). _____

L. The Association's managing agent is _____
(Name of Agent)

(Mailing Address)

(Telephone Number) (Fax Number)

(E-mail Address)

M. The restrictions ☐ do ☐ do not allow foreclosure of the Association's lien on the Property for failure to pay assessments.
REQUIRED ATTACHMENTS:

- | | |
|--------------------------|---|
| 1. Restrictions | 5. Current Operating Budget |
| 2. Rules | 6. Certificate of Insurance concerning Property and Liability Insurance for Common Areas and Facilities |
| 3. Bylaws | 7. Any Governmental Notices of Health or Housing Code Violations |
| 4. Current Balance Sheet | |

NOTICE: This Subdivision Information may change at any time.

Name of Association

By: _____

Print Name: _____

Title: _____

Date: _____

Mailing Address: _____

E-mail: _____



This form has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated contract forms. No representation is made as to the legal validity or adequacy of any provision in any specific transaction. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, 512-936-3000 (<http://www.trec.texas.gov>) TREC No. 37-5. This form replaces TREC No. 37-4.



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You want chapters 207 and 209 of the Texas Property Code.

Code:

Article/Chapter:

Art./Sec.:



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PROPERTY CODE

TITLE 11. RESTRICTIVE COVENANTS

CHAPTER 207. DISCLOSURE OF INFORMATION

BY PROPERTY OWNERS' ASSOCIATIONS

In all my slides I have substituted “property owners association” with “POA” to save space.

PROPERTY CODE

TITLE 11. RESTRICTIVE COVENANTS

CHAPTER 207. DISCLOSURE OF INFORMATION BY PROPERTY OWNERS' ASSOCIATIONS

Sec. 207.002. APPLICABILITY.

(a) This chapter applies to a subdivision with a POA that is entitled to levy regular or special assessments.

(b) This chapter does not apply to a condominium council of owners governed by Chapter [81](#) or a condominium unit owners' association governed by Chapter [82](#).

Sec. 207.003. DELIVERY OF SUBDIVISION INFORMATION TO OWNER.

(a) Not later than the 10th business day after the date a written request for subdivision information is received from an owner or the owner's agent, a purchaser of property in a subdivision or the purchaser's agent, or a title insurance company or its agent acting on behalf of the owner or purchaser and the evidence of the requestor's authority to order a resale certificate under Subsection (a-1) is received and verified, the POA shall deliver to the owner or the owner's agent, the purchaser or the purchaser's agent, or the title insurance company or its agent:

- (1) a current copy of the restrictions applying to the subdivision;
- (2) a current copy of the bylaws and rules of the POA; and
- (3) a resale certificate prepared not earlier than the 60th day before the date the certificate is delivered that complies with Subsection (b).

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

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

- (1) a statement of any right of first refusal, other than a right of first refusal that is prohibited by statute, and any other restraint contained in the restrictions or restrictive covenants that restricts the owner's right to transfer the owner's property;
- (2) the frequency and amount of any regular assessments;
- (3) the amount and purpose of any special assessment that has been approved before and is due after the resale certificate is delivered;
- (4) the total of all amounts due and unpaid to the property owners' association that are attributable to the owner's property;
- (5) capital expenditures, if any, approved by the property owners' association for the property owners' association's current fiscal year;
- (6) the amount of reserves, if any, for capital expenditures;
- (7) the property owners' association's current operating budget and balance sheet;
- (8) the total of any unsatisfied judgments against the property owners' association;
- (9) the style and cause number of any pending lawsuit in which the property owners' association is a party, other than a lawsuit relating to unpaid ad valorem taxes of an individual member of the association;
- (10) a copy of a certificate of insurance showing the property owners' association's property and liability insurance relating to the common areas and common facilities;
- (11) a description of any conditions on the owner's property that the property owners' association board has actual knowledge are in violation of the restrictions applying to the subdivision or the bylaws or rules of the property owners' association;
- (12) a summary or copy of notices received by the property owners' association from any governmental authority regarding health or housing code violations existing on the preparation date of the certificate relating to the owner's property or any common areas or common facilities owned or leased by the property owners' association;
- (13) the amount of any administrative transfer fee charged by the property owners' association for a change of ownership of property in the subdivision;
- (14) the name, mailing address, and telephone number of the property owners' association's managing agent, if any;

- (15) a statement indicating whether the restrictions allow foreclosure of a property owners' association's lien on the owner's property for failure to pay assessments; and
- (16) a statement of all fees associated with the transfer of ownership, including a description of each fee, to whom each fee is paid, and the amount of each fee.

(c) A POA may charge a reasonable and necessary fee, not to exceed \$375, to assemble, copy, & deliver the information required by this section and may charge a reasonable and necessary fee, not to exceed \$75, to prepare and deliver an update of a resale certificate under Subsection (f).

(c-1) The property owners' association may require payment before beginning the process of providing a resale certificate but may not process a payment for a resale certificate 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 Subsection (a).

(d) The property owners' association shall deliver the information required by Subsection (a) or (f) to the person specified in the written request. A written request that does not specify the name and location to which the information is to be sent is not effective. The property owners' association may deliver the information required by Subsection (a) and any update to the resale certificate required by Subsection (f) by mail, hand delivery, or alternative delivery means specified in the written request.

(e) Unless required by a dedicatory instrument, neither a property owners' association or its agent is required to inspect a property before issuing a resale certificate or an update to a resale certificate.

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

- (1) if a right of first refusal or other restraint on sale is contained in the restrictions, a statement of whether the property owners' association waives the restraint on sale;
- (2) the status of any unpaid special assessments, dues, or other payments attributable to the owner's property; and
- (3) any changes to the information provided in the resale certificate issued under Subsection (a).

(g) Requests for an updated resale certificate pursuant to Subsection (f) must be made within 180 days of the date a resale certificate is issued under Subsection (a). The update request may be made only by the party requesting the original resale certificate.

Sec. 207.004. OWNER'S REMEDIES FOR FAILURE BY PROPERTY OWNERS' ASSOCIATION TO TIMELY DELIVER INFORMATION.

(a) If a property owners' association does not timely deliver information in accordance with Section [207.003](#), the owner, owner's agent, or title insurance company or its agent acting on behalf of the owner may submit a second request for the information.

(b) If a property owners' association fails to deliver the information required under Section [207.003](#) before the fifth business day after the second request for the information was mailed by certified mail, return receipt requested, or hand delivered, evidenced by receipt, the owner:

- (1) may seek one or any combination of the following:
 - (A) a court order directing the property owners' association to furnish the required information;
 - (B) a judgment against the property owners' association for not more than \$5,000;
 - (C) a judgment against the property owners' association for court costs and reasonable attorney's fees; or
 - (D) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Paragraphs (B) and (C) from any future regular or special assessments payable to the property owners' association; and
- (2) may provide a buyer under contract to purchase the owner's property an affidavit that states that the owner, owner's agent, or title insurance company or its agent acting on behalf of the owner made, in accordance with this chapter, two written requests to the property owners' association for the information described in Section [207.003](#) and that the association did not timely provide the information.

(c) If the owner provides a buyer under contract to purchase the owner's property an affidavit in accordance with Subsection (b) (2):

- (1) the buyer, lender, or title insurance company or its agent is not liable to the property owners' association for:
 - (A) any money that is due and unpaid to the property owners' association on the date the affidavit was prepared; and
 - (B) any debt to the property owners' association or claim by the property owners' association that accrued before the date the affidavit was prepared; and
- (2) the property owners' association's lien to secure the amounts due the property owners' association on the owner's property on the date the affidavit was prepared shall automatically terminate.

Sec. 207.005. EFFECT OF RESALE CERTIFICATE; LIABILITY.

(a) A property owners' association may not deny the validity of any statement in the resale certificate. The property owners' association's lien to secure undisclosed amounts due the property owners' association on the date the resale certificate is prepared shall automatically terminate as a lien securing the undisclosed amount. A buyer, buyer's agent, owner, owner's agent, lender, and title insurance company and its agent are not

liable for any debt or claim existing on the preparation date of the resale certificate that is not disclosed in the resale certificate.

(b) A resale certificate does not affect:

- (1) the right of a property owners' association to recover debts or claims that arise or become due after the date the resale certificate is prepared; or
- (2) a lien on a property securing payment of future assessments held by the property owners' association.

(c) The owner's agent and the title insurance company and its agent are not liable to a buyer for any delay or failure by the property owners' association in delivering the information required by Section [207.003](#).

(d) Except as provided by Section [207.004](#), the property owners' association is not liable to an owner selling property in the subdivision for delay or failure to deliver the information required by Section [207.003](#). An officer or agent of the property owners' association is not liable for a delay or failure to furnish a resale certificate.

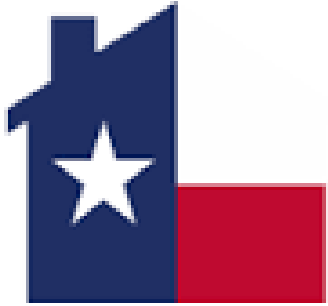
Sec. 207.006. ONLINE SUBDIVISION INFORMATION REQUIRED.

(a) This section applies only to:

- (1) the property owners' association of a subdivision composed of at least 60 lots; or
- (2) a property owners' association that has contracted with a management company.

(b) A property owners' association to which this section applies shall make the current version of the association's dedicatory instruments relating to the association or subdivision and filed in the county deed records available on an Internet website:

- (1) maintained by the association or a management company on behalf of the association; and
- (2) available to association members.



PROPERTY CODE

TITLE 11. RESTRICTIVE COVENANTS

**CHAPTER 209. TEXAS RESIDENTIAL PROPERTY OWNERS
PROTECTION ACT**

PROPERTY CODE

TITLE 11. RESTRICTIVE COVENANTS

CHAPTER 209. TEXAS RESIDENTIAL PROPERTY OWNERS PROTECTION ACT

Sec. 209.001. SHORT TITLE. This chapter may be cited as the Texas Residential Property Owners Protection Act.

Sec. 209.002. DEFINITIONS. In this chapter:

(1) "Assessment" means a regular assessment, special assessment, or other amount a property owner is required to pay a property owners' association under the dedicatory instrument or by law.

(2) "Board" means the governing body of a property owners' association.

(3) "Declaration" means an instrument filed in the real property records of a county that includes restrictive covenants governing a residential subdivision.

(4) "Dedicatory instrument" means each governing instrument covering the establishment, maintenance, and operation of a residential subdivision. The term includes restrictions or similar instruments subjecting property to restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association, to properly adopted rules and regulations of the property owners' association, and to all lawful amendments to the covenants, bylaws, rules, or regulations.

(4-a) "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; or

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

- (5) "Lot" means any designated parcel of land located in a residential subdivision, including any improvements on the designated parcel.
- (5-a) "Management company" means a person or entity established or contracted to provide management or administrative services on behalf of a property owners' association.
- (6) "Owner" means a person who holds record title to property in a residential subdivision and includes the personal representative of a person who holds record title to property in a residential subdivision.
- (7) "Property owners' association" or "association" means an incorporated or unincorporated association that:
- (A) is designated as the representative of the owners of property in a residential subdivision;
 - (B) has a membership primarily consisting of the owners of the property covered by the dedicatory instrument for the residential subdivision; and
 - (C) manages or regulates the residential subdivision for the benefit of the owners of property in the residential subdivision.
- (8) "Regular assessment" means an assessment, a charge, a fee, or dues that each owner of property within a residential subdivision is required to pay to the property owners' association on a regular basis and that is designated for use by the property owners' association for the benefit of the residential subdivision as provided by the restrictions.
- (9) "Residential subdivision" or "subdivision" means a subdivision, planned unit development, townhouse regime, or similar planned development in which all land has been divided into two or more parts and is subject to restrictions that:
- (A) limit a majority of the land subject to the dedicatory instruments, excluding streets, common areas, and public areas, to residential use for single-family homes, townhomes, or duplexes only;
 - (B) are recorded in the real property records of the county in which the residential subdivision is located; and
 - (C) require membership in a property owners' association that has authority to impose regular or special assessments on the property in the subdivision.
- (10) "Restrictions" means one or more restrictive covenants contained or incorporated by reference in a properly recorded map, plat, replat, declaration, or other instrument filed in the real property records or map or plat records. The term includes any amendment or extension of the restrictions.

(11) "Restrictive covenant" means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative.

(12) "Special assessment" means an assessment, a charge, a fee, or dues, other than a regular assessment, that each owner of property located in a residential subdivision is required to pay to the property owners' association, according to procedures required by the dedicatory instruments, for:

- (A) defraying, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, unexpected repair, or replacement of a capital improvement in common areas owned by the property owners' association, including the necessary fixtures and personal property related to the common areas;
- (B) maintenance and improvement of common areas owned by the property owners' association; or
- (C) other purposes of the property owners' association as stated in its articles of incorporation or the dedicatory instrument for the residential subdivision.

(13) "Verified mail" means any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier.

Sec. 209.003. APPLICABILITY OF CHAPTER.

(a) This chapter applies only to a residential subdivision that is subject to restrictions or provisions in a declaration that authorize the property owners' association to collect regular or special assessments on all or a majority of the property in the subdivision.

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

(c) This chapter applies to a residential property owners' association regardless of whether the entity is designated as a "homeowners' association," "community association," or similar designation in the restrictions or dedicatory instrument.

(d) This chapter does not apply to a condominium as defined by Section 81.002 or 82.003.

(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:

Sec. 209.004. MANAGEMENT CERTIFICATES.

(a) A property owners' association shall record in each county in which any portion of the residential subdivision is located a management certificate, signed and acknowledged by an officer or the managing agent of the association, stating:

- (1) the name of the subdivision;
- (2) the name of the association;
- (3) the recording data for the subdivision;
- (4) the recording data for the declaration and any amendments to the declaration;
- (5) the name and mailing address of the association;
- (6) the name, mailing address, telephone number, and e-mail address of the person managing the association or the association's designated representative;
- (7) the website address of any Internet website on which the association's dedicatory instruments are available in accordance with Section 207.006;
- (8) the amount and description of a fee or fees charged by the association relating to a property transfer in the subdivision; and
- (9) other information the association considers appropriate.

(a-1) The county clerk of each county in which a management certificate is filed as required by this section shall record the management certificate in the real property records of the county and index the document as a "Property Owners' Association Management Certificate."

(b) The property owners' association shall record an amended management certificate in each county in which any portion of the residential subdivision is located not later than the 30th day after the date the association has notice of a change in any information in the recorded certificate required by Subsection (a).

(b-1) Not later than the seventh day after the date a property owners' association files a management certificate for recording under Subsection (a) or files an amended management certificate for recording under Subsection (b), the property owners' association shall electronically file the management certificate or amended management certificate with the Texas Real Estate Commission. The Texas Real Estate Commission shall only collect the management certificate and amended management certificate for the purpose of making the data accessible to the general public through an Internet website.

(c) Except as provided under Subsections (d) and (e), the property owners' association and its officers, directors, employees, and agents are not subject to liability to any person for a delay in recording or failure to record a management certificate with a county clerk's office or electronically file the management certificate with the Texas Real Estate Commission, unless the delay or failure is wilful or caused by gross negligence.

(d) If a property owners' association fails to record a management certificate or an amended management certificate under this section, the purchaser, lender, or title insurance company or its agent in a transaction involving property in the property owners' association is not liable to the property owners' association for:

- (1) any amount due to the association on the date of a transfer to a bona fide purchaser; and
- (2) any debt to or claim of the association that accrued before the date of a transfer to a bona fide purchaser.

(e) A lien of a property owners' association that fails to file a management certificate or an amended management certificate under this section to secure an amount due on the effective date of a transfer to a bona fide purchaser is enforceable only for an amount incurred after the effective date of sale. An owner is not liable for attorney's fees incurred by a property owners' association relating to the collection of a delinquent assessment against the owner or interest on the amount of a delinquent assessment if the attorney's fees are incurred by the association or the interest accrues during the period a management certificate is not recorded with a county clerk or electronically filed with the Texas Real Estate Commission as required by this section.

(f) For purposes of this section, "bona fide purchaser" means:

- (1) a person who pays valuable consideration without notice of outstanding rights of others and acts in good faith; or
- (2) a third-party lender who acquires a security interest in the property under a deed of trust.

Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY INSTRUMENTS.

(a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1183 , Sec. 24, eff. September 1, 2015.

(b) This section applies to a residential subdivision in which property owners are subject to mandatory membership in a property owners' association.

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

(d) This section does not apply to the amendment of a declaration during a development period.

(d-1) This section does not apply to an amendment of a declaration if the amendment would affect a portion of a subdivision that is zoned for or that contains, or previously contained as specifically allowed under the declaration, a commercial structure, an industrial structure, an apartment complex, or a condominium as defined by Section 81.002 or 82.003. For purposes of this subsection, "apartment complex" means two or more dwellings in one or more buildings that are owned by the same owner,

located on the same lot or tract, and managed by the same owner, agent, or management company.

(e) This section applies to a dedicatory instrument regardless of the date on which the dedicatory instrument was created.

(f) This section supersedes any contrary requirement in a dedicatory instrument.

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

(h) Except as provided by Subsection (h-1) or (h-2), a declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners entitled to vote on the amendment of the declaration, in addition to any governmental approval required by law.

(h-1) If the declaration contains a lower percentage than prescribed by Subsection (h), the percentage in the declaration controls.

(h-2) If the declaration is silent as to voting rights for an amendment, the declaration may be amended by a vote of owners owning 67 percent of the lots subject to the declaration.

(i) A bylaw may not be amended to conflict with the declaration.

Sec. 209.0042. METHODS OF PROVIDING NOTICES TO OWNERS.

(a) Subject to this section, a property owners' association may adopt a method that may be used by the association to provide a notice from the association to a property owner.

(b) A property owners' association may use an alternative method of providing notice adopted under this section to provide a notice for which another method is prescribed by law only if the property owner to whom the notice is provided has affirmatively opted to allow the association to use the alternative method of providing notice to provide to the owner notices for which another method is prescribed by law.

(c) A property owners' association may not require an owner to allow the association to use an alternative method of providing notice adopted under this section to provide to the owner any notice for which another method of providing notice is prescribed by law.

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 application of Section 552.0036, Government Code.

(c) Notwithstanding a provision in a dedicatory instrument, a property owners' association shall make the books and records of the association, including financial records, open to and reasonably available for examination by an owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the association copies of information contained in the books and records.



REQUEST FOR INFORMATION FROM AN OWNERS' ASSOCIATION

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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To: _____ (Owners' Association)
_____ (Address)
_____ (City, State, Zip)

Re: NOTICE OF INTENDED SALE/PURCHASE AND REQUEST FOR INFORMATION

This notice is to advise you that I intend to ☐ sell ☐ purchase the Property at:
_____ (Address)
_____ (City, State, Zip).

I am requesting the following information:

- ☐ Residential Subdivision Information, which includes:
- (1) a current copy of the subdivision's restrictions;
 - (2) a current copy of the bylaws and rules of the Owners' Association; and
 - (3) a resale certificate that complies with §207.003, Property Code.
- ☐ Condominium Information, which includes:
- (1) a current copy of the condominium declaration;
 - (2) a current copy of the bylaws and rules of the Condominium Association; and
 - (3) a resale certificate that complies with §82.157, Property Code.

Note: Only sellers may request Condominium Information.

Please deliver the information to:

_____ (☐ Broker ☐ Owner ☐ Buyer ☐ Closing Agent)
Attn: _____
_____ (Address)
_____ (City, State, Zip)
_____ (phone) _____ (fax)
_____ (e-mail).

I understand that the Property Code requires you to deliver the requested information not later than the 10th business day after the date you receive this written request.

Please advise me and the person to whom you will deliver the information if the Owners' Association has a right of first refusal or if the Owners' Association requires other information from me.

Enclosed is \$_____ for the cost, if any, for the requested information.

Owner _____ Date _____

Buyer _____ Date _____

Enclosure: TREC Resale Certificate (TXR No. 1921 for Condominiums; TXR No. 1923 for Subdivisions)



ADDENDUM FOR AUTHORIZATION TO ACT FOR OWNER BEFORE OWNERS' ASSOCIATION

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ADDENDUM TO LEASING AND MANAGEMENT AGREEMENT BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE PROPERTY AT _____

A. Ownership of the above-referenced Property entitles Owner to membership in the _____ (Association).

The contact information of the manager for the Association is _____

_____.

B. Owner will provide Broker copies of all Association documents in Owners' possession.

C. Owner grants to Broker the sole and exclusive right and authority to act on Owner's behalf and appoints Broker as Owner's attorney-in-fact to act as Owner's agent in all matters dealing with or in any way connected with the Association relating to the above-referenced Property, including but not limited to, the right to:

- (1) negotiate agreements;
- (2) request and receive from the Association, its officers, directors, or management all information, accounting, and documents to which Owner may be entitled;
- (3) vote in person or by proxy on all matters that may arise affecting the Property related to the Association;
- (4) instruct the Association where to send notices and correspondence (including instructions to send notices to the Owner at Owner's address or to broker or to both), which as of this date, Owner instructs Association to send notices and correspondence to: _____;

_____; and

- (5) advise the Association of this agreement and of any lease of the Property.

Except as expressly provided, this addendum does not obligate Broker to attend Association meetings.

D. Owner is responsible for payment of all mandatory assessments or fees payable to the Association.

- ☐ (1) Owner will remit any fees or assessments payable to the Association.
- ☐ (2) Broker will remit any fees or assessments payable to the Association from funds Broker receives in trust for Owner.

E. Special Provisions:

Broker's Printed Name _____ Date _____

By: _____
Broker's Associate's Signature

Owner _____ Date _____

By: _____

Owner _____ Date _____

By: _____

(d) Except as provided by this subsection, an attorney's files and records relating to the property owners' association, excluding invoices requested by an owner under Section 209.008(d), are not records of the association and are not subject to inspection by the owner or production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.

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

- (1) if an inspection is requested, the association, on or before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; or
- (2) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.

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

- (1) informs the requestor that the association is unable to produce the information on or before the 10th business day after the date the association received the request; and
- (2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.

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

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

(i) A property owners' association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3. The policy required by this subsection must be recorded as a dedicatory instrument in accordance with Section 202.006. An association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection. The association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

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

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

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

- (1) the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or
- (2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

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

- (1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
- (2) financial books and records shall be retained for seven years;
- (3) account records of current owners shall be retained for 5 yrs;
- (4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
- (5) minutes of meetings of the owners and the board shall be retained for seven years; and
- (6) tax returns & audit records shall be retained for 7 years.

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

- (1) a judgment ordering the property owners' association to release or allow access to the books or records;
- (2) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or
- (3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the property owners' association.

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

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

- (1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004; and
- (2) describe with sufficient detail the books and records being requested.

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

Sec. 209.00505. ARCHITECTURAL REVIEW AUTHORITY.

(a) In this section, "architectural review authority" means the governing authority for the review and approval of improvements within a subdivision.

(b) This section:

- (1) applies only to a property owners' association that consists of more than 40 lots; and
- (2) does not apply during a development period or during any period in which the declarant:
 - (A) appoints at least a majority of the members of the architectural review authority or otherwise controls the appointment of the architectural review authority; or
 - (B) has the right to veto or modify a decision of the architectural review authority.

(c) A person may not be appointed or elected to serve on an architectural review authority if the person is:

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

(d) A decision by the architectural review authority denying an application or request by an owner for the construction of improvements in the subdivision may be appealed to the board. A written notice of the denial must be provided to the owner by certified mail, hand delivery, or electronic delivery. The notice must:

- (1) describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and
- (2) inform the owner that the owner may request a hearing under Subsection (e) on or before the 30th day after the date the notice was mailed to the owner.

(e) The board shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required under this subsection.

(f) During a hearing, the board or the designated representative of the property owners' association and the owner or the owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the owner's application or request for the construction of improvements, and the changes, if any, requested by the architectural review authority in the notice provided to the owner under Subsection (d).

(g) The board or the owner may request a postponement. If requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties.

(h) The property owners' association or the owner may make an audio recording of the meeting.

(i) The board may affirm, modify, or reverse, in whole or in part, any decision of the architectural review authority as consistent with the subdivision's declaration.

Sec. 209.0051. OPEN BOARD MEETINGS.

(a) This section does not apply to a property owners' association that is subject to Chapter 551, Government Code, by application of Section 551.0015, Government Code.

(b) In this section, "board meeting":

(1) means a deliberation between a quorum of the voting board of the property owners' association, or between a quorum of the voting board and another person, during which property owners' association business is considered and the board takes formal action; and

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

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

oral summary must include a general explanation of expenditures approved in executive session.

(c-1) Except for a meeting held by electronic or telephonic means under Subsection (c-2), a board meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.

(c-2) A board meeting may be held by electronic or telephonic means provided that:

(1) each board member may hear and be heard by every other board member;

(2) except for any portion of the meeting conducted in executive session:

(A) all owners in attendance at the meeting may hear all board members; and

(B) owners are allowed to listen using any electronic or telephonic communication method used or expected to be used by a board member to participate; and

(3) the notice of the meeting includes instructions for owners to access any communication method required to be accessible under Subdivision (2)(B).

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

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

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

(2) provided at least 144 hours before the start of a regular board meeting and at least 72 hours before the start of a special board meeting by:

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

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

(ii) on any Internet website available to association members that is maintained by the association or by a management company on behalf of the association; and

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

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

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

(h) Except as provided by this subsection, a board may take action outside of a meeting, including voting by electronic or telephonic means, without prior notice to owners under Subsection (e), if each board member is given a reasonable opportunity to express the board member's opinion to all other board members and to vote. Any action taken without notice to owners under Subsection (e) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting. The board may not, unless done in an open meeting for which prior notice was given to owners under Subsection (e), consider or vote on:

- (1) fines;
- (2) damage assessments;
- (3) initiation of foreclosure actions;
- (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- (5) increases in assessments;
- (6) levying of special assessments;
- (7) appeals from a denial of architectural control approval;
- (8) a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue;
- (9) lending or borrowing money;
- (10) the adoption or amendment of a dedicatory instrument;
- (11) the approval of an annual budget or the approval of an amendment of an annual budget;
- (12) the sale or purchase of real property;
- (13) the filling of a vacancy on the board;
- (14) the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or
- (15) the election of an officer.

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

- (1) adopting or amending the governing documents, including declarations, bylaws, rules, and regulations of the association;
- (2) increasing the amount of regular assessments of the association or adopting or increasing a special assessment;
- (3) electing non-developer board members of the association or establishing a process by which those members are elected; or
- (4) changing the voting rights of members of the association.

Sec. 209.0052. ASSOCIATION CONTRACTS.

(a) This section does not apply to a contract entered into by an association during the development period.

(b) An association may enter into an enforceable contract with a current association board member, a person related to a current association board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, a company in which a current association board member has a financial interest in at least 51 percent of profits, or a company in which a person related to a current association board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a financial interest in at least 51 percent of profits only if the following conditions are satisfied:

- (1) the board member, relative, or company bids on the proposed contract and the association has received at least two other bids for the contract from persons not associated with the board member, relative, or company, if reasonably available in the community;
- (2) the board member:
 - (A) is not given access to the other bids;
 - (B) does not participate in any board discussion regarding the contract; and
 - (C) does not vote on the award of the contract;
- (3) the material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the association board and the board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection; and
- (4) the association board certifies that the other requirements of this subsection have been satisfied by a resolution approved by an affirmative vote of the majority of the board members who do not have an interest governed by this subsection.

(c) In addition to the other applicable requirements of this section, an association that proposes to contract for services that will cost more than \$50,000 shall solicit bids or proposals using a bid process established by the association.

Sec. 209.0055. VOTING.

- (a) This section applies only to a property owners' association that:
- (1) provides maintenance, preservation, and architectural control of residential and commercial property within 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; and
 - (2) is a corporation that:
 - (A) is governed by a board of trustees who may employ a general manager to execute the association's bylaws and administer the business of the corporation;
 - (B) does not require membership in the corporation by the owners of the property within the defined area; and
 - (C) was incorporated before January 1, 2006.
- (b) A property owners' association described by Subsection (a) may not bar a property owner from voting in an association election solely based on the fact that:
- (1) there is a pending enforcement action against the property owner; or
 - (2) the property owner owes the association any delinquent assessments, fees, or fines.

Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

- (a) For an election or vote taken at a meeting of the owners, not later than the 10th day or earlier than the 60th day before the date of the election or vote, a property owners' association shall give written notice of the election or vote to:
- (1) each owner of property in the property owners' association, for purposes of an association-wide election or vote; or
 - (2) each owner of property in the property owners' association entitled under the dedicatory instruments to vote in a particular representative election, for purposes of a vote that involves election of representatives of the association who are vested under the dedicatory instruments of the property owners' association with the authority to elect or appoint board members of the property owners' association.
- (a-1) For an election or vote of owners not taken at a meeting, the property owners' association shall give notice of the election or vote to all owners entitled to vote on any matter under consideration. The notice shall be given not later than the 20th day before the latest date on which a ballot may be submitted to be counted.
- (b) This section supersedes any contrary requirement in a dedicatory instrument.

Sec. 209.0057. RECOUNT OF VOTES.

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

(b) Any owner may, not later than the 15th day after the later of the date of any meeting of owners at which the election or vote was held or the date of the announcement of the results of the election or vote, require a recount of the votes. A demand for a recount must be submitted in writing either:

- (1) by verified mail or by delivery by the United States Postal Service with signature confirmation service to the property owners' association's mailing address as reflected on the latest management certificate filed under Section 209.004; or
- (2) in person to the property owners' association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

(b-1) The property owners' association must estimate the costs for performance of the recount by a person qualified to tabulate votes under Subsection (c) and must send an invoice for the estimated costs to the requesting owner at the owner's last known address according to association records not later than the 20th day after the date the association receives the owner's demand for the recount.

(b-2) The owner demanding a recount under this section must pay the invoice described by Subsection (b-1) in full to the property owners' association on or before the 30th day after the date the invoice is sent to the owner.

(b-3) If the invoice described by Subsection (b-1) is not paid by the deadline prescribed by Subsection (b-2), the owner's demand for a recount is considered withdrawn and a recount is not required.

(b-4) If the estimated costs under Subsection (b-1) are lesser or greater than the actual costs, the property owners' association must send a final invoice to the owner on or before the 30th business day after the date the results of the recount are provided. If the final invoice includes additional amounts owed by the owner, any additional amounts not paid to the association before the 30th business day after the date the invoice is sent to the owner may be added to the owner's account as an assessment. If the estimated costs exceed the final invoice amount, the owner is entitled to a refund. The refund shall be paid to the owner at the time the final invoice is sent under this subsection.

(c) Following receipt of payment under Subsection (b-2), the property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount the services of

a person qualified to tabulate votes under this subsection. The association shall enter into a contract for the services of a person who:

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

- (A) a current or former:
 - (i) county judge;
 - (ii) county elections administrator;
 - (iii) justice of the peace; or
 - (iv) county voter registrar; or
- (B) a person agreed on by the association and each person requesting the recount.

(d) On or before the 30th day after the date of receipt of payment for a recount in accordance with Subsection (b-2), the recount must be completed and the property owners' association must provide each owner who requested the recount with notice of the results of the recount. If the recount changes the results of the election, the association shall reimburse the requesting owner for the cost of the recount not later than the 30th day after the date the results of the recount are provided. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Sec. 209.0058. BALLOTS.

(a) Except as provided by Subsection (d), any vote cast in an election or vote by a member of a property owners' association must be in writing and signed by the member.

(a) Except as provided by Subsection (d), a vote cast by a member of a property owners' association must be in writing and signed by the member if the vote is cast:

- (1) outside of a meeting;
- (2) in an election to fill a position on the board;
- (3) on a proposed adoption or amendment of a dedicatory instrument;
- (4) on a proposed increase in the amount of a regular assessment or the proposed adoption of a special assessment; or
- (5) on the proposed removal of a board member.

(a-1) If a property owners' association elects to use a ballot for a vote on a matter other than a matter described by Subsection (a), the ballot must be:

- (1) in writing and signed by the member; or
- (2) cast by secret ballot in accordance with Subsection (d).

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

(c) In a property owners' association election, written and signed ballots are not required for uncontested races.

(d) A property owners' association may adopt rules to allow voting by secret ballot by association members. The association must take measures to reasonably ensure that:

- (1) a member cannot cast more votes than the member is eligible to cast in an election or vote;
- (2) the association counts each vote cast by a member that the member is eligible to cast; and
- (3) in any election for the board, each candidate may name one person to observe the counting of the ballots, provided that this does not entitle any observer to see the name of the person who cast any ballot, and that any disruptive observer may be removed.

Sec. 209.0059. RIGHT TO VOTE.

(a) A provision in a dedicatory instrument that would disqualify a property owner from voting in a property owners' association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

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

(c) In a residential development with 10 or fewer lots for which the declaration was recorded before January 1, 2015, a person may not vote in a property owners' association election unless the person is subject to a dedicatory instrument governing the association through which the association exercises its authority.

Sec. 209.00591. BOARD MEMBERSHIP.

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

(a-1) Notwithstanding any other provision of this chapter, a property owners' association's bylaws may require one or more board members to reside in the subdivision subject to the dedicatory instruments but may not require all board members to reside in that subdivision. A requirement described by this subsection is not applicable during the development period.

(a-2) Notwithstanding any other provision of this chapter, a property owners' association that governs a subdivision comprised of multiple sections may designate in an association instrument governing the administration or operation of the association a specified number of positions on the board, each of which must be elected from a designated section of the subdivision. The instrument may require each board member representing a section to reside in that section.

(a-3) A person may not serve on the board of a property owners' association if the person cohabits at the same primary residence with another board member of the association. This subsection does not apply:

- (1) to an association with fewer than 10 residences; or
- (2) during a subdivision's development period to affect the eligibility to serve on the board of:
 - (A) a person who cohabits with a developer of the subdivision regulated by the association; or
 - (B) the developer.

(b) If a board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member was convicted of a felony or crime involving moral turpitude not more than 20 years before the date the board is presented with the evidence, the board member is immediately ineligible to serve on the board of the property owners' association, automatically considered removed from the board, and prohibited from future service on the board.

(c) The declaration may provide for a period of declarant control of the association during which a declarant, or persons designated by the declarant, may appoint and remove board members and the officers of the association, other than board members or officers elected by members of the property owners' association. Regardless of the period of declarant control provided by the declaration, on or before the 120th day after the date 75 percent of the lots that may be created and made subject to the declaration are conveyed to owners other than a declarant or a builder in the business of constructing homes who purchased the lots from the declarant for the purpose of selling completed homes built on the lots, at least one-third of the board members must be elected by owners other than the declarant. If the declaration does not include the number of lots that may be created and made subject to the declaration, at least one-third of the board members must be elected by owners other than the declarant not later than the 10th anniversary of the date the declaration was recorded.

Sec. 209.00592. VOTING; QUORUM.

(a) Subject to Subsection (a-1), the voting rights of an owner may be cast or given:

- (1) in person or by proxy at a meeting of the property owners' association;
- (2) by absentee ballot in accordance with this section;
- (3) by electronic ballot in accordance with this section; or
- (4) by any method of representative or delegated voting provided by a dedicatory instrument.

(a-1) Except as provided by this subsection, unless a dedicatory instrument provides otherwise, a property owners' association is not required to provide an owner with more than one voting method. An owner must be allowed to vote by absentee ballot or proxy.

- (b) An absentee or electronic ballot:
- (1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;
 - (2) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and
 - (3) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.
- (b-1) For purposes of Subsection (b), a nomination taken from the floor in a board member election is not considered an amendment to the proposal for the election.
- (c) A solicitation for votes by absentee ballot must include:
- (1) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
 - (2) instructions for delivery of the completed absentee ballot, including the delivery location; and
 - (3) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."
- (d) For the purposes of this section, "electronic ballot" means a ballot:
- (1) given by:
 - (A) e-mail;
 - (B) facsimile; or
 - (C) posting on an Internet website;
 - (2) for which the identity of the property owner submitting the ballot can be confirmed; and
 - (3) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.
- (e) If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.
- (f) This section supersedes any contrary provision in a dedicatory instrument.

Sec. 209.00593. ELECTION OF BOARD MEMBERS.

(a) Notwithstanding any provision in a dedicatory instrument, any board member whose term has expired must be elected by owners who are members of the POA. A board member may be appointed by the board to fill a vacancy on the board. A board member appointed to fill a vacant position shall serve for the remainder of the unexpired term of the position.

(a-1) At least 10 days before the date a POA composed of more than 100 lots disseminates absentee ballots or other ballots to association members for purposes of voting in a board member election, the association must provide notice to the association members soliciting candidates interested in running for a position on the board. The notice must contain instructions for an eligible candidate to notify the association of the candidate's request to be placed on the ballot and the deadline to submit the candidate's request. The deadline may not be earlier than the 10th day after the date the association provides the notice required by this subsection.

(a-2) The notice required by Subsection (a-1) must be:

(1) mailed to each owner; or

(2) provided by:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to association members:

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

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

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

(a-3) An association described by Subsection (a-1) shall include on each absentee ballot or other ballot for a board member election the name of each eligible candidate from whom the association received a request to be placed on the ballot in accordance with this section.

(b) The board of a POA may amend the bylaws of the POA to provide for elections to be held as required by Subsection (a).

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

(d) This section does not apply to the appointment of a board member during a development period.

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

Sec. 209.00594. TABULATION OF AND ACCESS TO BALLOTS.

(a) Notwithstanding any other provision of this chapter or any other law, a person who is a candidate in a property owners' association election or who is otherwise the subject of an association vote, or a person related to that person within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, may not tabulate or otherwise be given access to the ballots cast in that election or vote except as provided by this section.

(b) A person other than a person described by Subsection (a) may tabulate votes in an association election or vote.

(b-1) A person who tabulates votes under Subsection (b) or who performs a recount under Section 209.0057(c) may not disclose to any other person how an individual voted.

(c) Notwithstanding any other provision of this chapter or any other law, only a person who tabulates votes under Subsection (b) or who performs a recount under Section 209.0057(c) may be given access to the ballots cast in the election or vote.

(d) This section may not be construed to affect a person's obligation to comply with a court order for the release of ballots or other voting records.

Sec. 209.006. NOTICE REQUIRED BEFORE ENFORCEMENT ACTION.

(a) Before a property owners' association may suspend an owner's right to use a common area, file a suit against an owner other than a suit to collect a regular or special assessment or foreclose under an association's lien, charge an owner for property damage, levy a fine for a violation of the restrictions or bylaws or rules of the association, or report any delinquency of an owner to a credit reporting service, the association or its agent must give written notice to the owner by certified mail.

(b) The notice must:

- (1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner;
- (2) except as provided by Subsection (d), inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension if the violation is of a curable nature and does not pose a threat to public health or safety;

(B) may request a hearing under Section 209.007 on or before the 30th day after the date the notice was mailed to the owner; and

(C) may have special rights or relief related to the enforcement action under federal law, including the

Servicemembers Civil Relief Act (50 U.S.C. App. Section 501 et seq.), if the owner is serving on active military duty;

(3) specify the date by which the owner must cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety; and

(4) be sent by verified mail to the owner at the owner's last known address as shown on the association records.

(c) The date specified in the notice under Subsection (b)(3) must provide a reasonable period to cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety.

(d) Subsections (a) and (b) do not apply to a violation for which the owner has been previously given notice under this section and the opportunity to exercise any rights available under this section in the preceding six months.

(e) If the owner cures the violation before the expiration of the period for cure described by Subsection (c), a fine may not be assessed for the violation.

(f) For purposes of this section, a violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident

(g) For purposes of this section, a violation is considered incurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. For purposes of this subsection, the nonrepetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy.

(h) The following are examples of acts considered incurable for purposes of this section:

- (1) shooting fireworks;
- (2) an act constituting a threat to health or safety;
- (3) a noise violation that is not ongoing;
- (4) property damage, including the removal or alteration of landscape; and
- (5) holding a garage sale or other event prohibited by a dedicatory instrument.

(i) The following are examples of acts considered curable for purposes of this section:

- (1) a parking violation;
- (2) a maintenance violation;
- (3) the failure to construct improvements or modifications in accordance with approved plans and specifications; and
- (4) an ongoing noise violation such as a barking dog.

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 property owners' association is three months.

(c) A property owners' association is not required to allow a payment plan for any amount that extends more than 18 months from the date of the owner's request for a payment plan. The association is not required to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan during the two years following the owner's default under the previous payment plan. The association is not required to make a payment plan available to an owner after the period for cure described by Section 209.0064(b)(3) expires. The association is not required to allow an owner to enter into a payment plan more than once in any 12-month period.

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

(e) A property owners' association's failure to file as required by this section the association's guidelines in the real property records of each county in which the subdivision is located does not prohibit a property owner from receiving an alternative payment schedule by which the 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, as defined by Subsection (a).

Sec. 209.0063. PRIORITY OF PAYMENTS.

(a) Except as provided by Subsection (b), a payment received by a POA from the owner shall be applied to the owner's debt in the following order:

- (1) any delinquent assessment;
- (2) any current assessment;
- (3) any reasonable attorney's fees or reasonable third party collection costs incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;
- (4) any reasonable attorney's fees incurred by the association that are not subject to Subdivision (3);
- (5) any reasonable fines assessed by the association; and
- (6) any other reasonable amount owed to the association.

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

- (1) the association is not required to apply the payment in the order of priority specified by Subsection (a); and
- (2) in applying the payment, a fine assessed by the association may not be given priority over any other amount owed to the association.

Sec. 209.0064. THIRD PARTY COLLECTIONS.

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

(b) A property owners' association may not hold an owner liable for fees of a collection agent retained by the association unless the association first provides written notice to the owner by certified mail that:

- (1) specifies each delinquent amount and the total amount of the payment required to make the account current;
- (2) if the association is subject to Section 209.0062 or the association's dedicatory instruments contain a requirement to offer a payment plan, describes the options the owner has to avoid having the account turned over to a collection agent, including information regarding availability of a payment plan through the association; and
- (3) provides a period of at least 45 days for the owner to cure the delinquency before further collection action is taken.

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

- (1) the obligation for payment by the association to the association's collection agent for fees or costs associated with a collection action is in any way dependent or contingent on amounts recovered; or
- (2) the payment agreement between the association and the association's collection agent does not require payment by the association of all fees to a collection agent for the action undertaken by the collection agent.

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

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

Sec. 209.0065. CREDIT REPORTING SERVICES.

(a) A property owners' association or the association's collection agent may not report any delinquent fines, fees, or assessments to a credit reporting service that are the subject of a pending dispute between the owner and the property owners' association.

(b) A property owners' association may report the delinquent payment history of assessments, fines, and fees of property owners within its jurisdiction to a credit reporting service only if:

- (1) at least 30 business days before reporting to a credit reporting service, the association sends, via certified mail, hand delivery, electronic delivery, or by other delivery means acceptable between the parties, a detailed report of all delinquent charges owed; and
- (2) a property owner has been given the opportunity to enter into a payment plan.

(c) A property owners' association may not charge a fee to an individual property owner for the reporting under Subsection (b) of the delinquent payment history of assessments, fines, and fees of property owners within the association's jurisdiction to a credit reporting service.

Sec. 209.007. HEARING BEFORE BOARD; ALTERNATIVE DISPUTE RESOLUTION.

(a) Except as provided by Subsection (d) and only if the owner is entitled to an opportunity to cure the violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before the board.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 951 (S.B. 1588), Sec. 22(2), eff. September 1, 2021.

(c) The association shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. The board or the owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. The owner or the association may make an audio recording of the meeting.

(d) The notice and hearing provisions of Section 209.006 and this section do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel mediation. The notice and hearing provisions of Section 209.006 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The

temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section.

(e) An owner or property owners' association may use alternative dispute resolution services.

(f) Not later than 10 days before the association holds a hearing under this section, the association shall provide to an owner a packet containing all documents, photographs, and communications relating to the matter the association intends to introduce at the hearing.

(g) If an association does not provide a packet within the period described by Subsection (f), an owner is entitled to an automatic 15-day postponement of the hearing.

(h) During a hearing, a member of the board or the association's designated representative shall first present the association's case against the owner. An owner or the owner's designated representative is entitled to present the owner's information and issues relevant to the appeal or dispute.

Sec. 209.008. ATTORNEY'S FEES.

(a) A property owners' association may collect reimbursement of reasonable attorney's fees and other reasonable costs incurred by the association relating to collecting amounts, including damages, due the association for enforcing restrictions or the bylaws or rules of the association only if the owner is provided a written notice that attorney's fees and costs will be charged to the owner if the delinquency or violation continues after a date certain.

(b) An owner is not liable for attorney's fees incurred by the association relating to a matter described by the notice under Section 209.006 if the attorney's fees are incurred before the conclusion of the hearing under Section 209.007 or, if the owner does not request a hearing under that section, before the date by which the owner must request a hearing. The owner's presence is not required to hold a hearing under Section 209.007.

(c) All attorney's fees, costs, and other amounts collected from an owner shall be deposited into an account maintained at a financial institution in the name of the association or its managing agent. Only members of the association's board or its managing agent or employees of its managing agent may be signatories on the account.

(d) On written request from the owner, the association shall provide copies of invoices for attorney's fees and other costs relating only to the matter for which the association seeks reimbursement of fees and costs.

(e) The notice provisions of Subsection (a) do not apply to a counterclaim of an association in a lawsuit brought against the association by a property owner.

(f) If the dedicatory instrument or restrictions of an association allow for nonjudicial foreclosure, the amount of attorney's fees that a property owners' association may include in a nonjudicial foreclosure sale for an indebtedness covered by a property owners' association's assessment lien is limited to the greater of:

(1) one-third of the amount of all actual costs and assessments, excluding attorney's fees, plus interest and court costs, if those amounts are permitted to be included by law or by the restrictive covenants governing the property; or

(2) \$2,500.

(g) Subsection (f) does not prevent a property owners' association from recovering or collecting attorney's fees in excess of the amounts prescribed by Subsection (f) by other means provided by law.

Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES.

A property owners' association may not foreclose a property owners' association's assessment lien if the debt securing the lien consists solely of:

(1) fines assessed by the association;

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

(3) amounts added to the owner's account as an assessment under Section 209.005(i) or 209.0057(b-4).

Sec. 209.0091. PREREQUISITES TO FORECLOSURE: NOTICE AND OPPORTUNITY TO CURE FOR CERTAIN OTHER LIENHOLDERS.

(a) A property owners' association may not file an application for an expedited court order authorizing foreclosure of the association's assessment lien as described by Section 209.0092(a) or a petition for judicial foreclosure of the association's assessment lien as described by Section 209.0092(d) unless the association has:

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

(2) provided the recipient of the notice an opportunity to cure the delinquency before the 61st day after the date the association mails the notice described in Subdivision (1).

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

(c) Notwithstanding any other law, notice under this section may be provided to any holder of a lien of record on the property.

Sec. 209.0092. JUDICIAL FORECLOSURE REQUIRED.

(a) Except as provided by Subsection (c) or (d) and subject to Section 209.009, a property owners' association may not foreclose a property owners' association assessment lien unless the association first obtains a court order in an application for expedited foreclosure under the rules adopted by the supreme court under Subsection (b). A property owners' association may use the procedure described by this subsection to foreclose any lien described by the association's dedicatory instruments. A property owners' association whose dedicatory instruments grant a right of foreclosure is considered to have any power of sale required by law as a condition of using the procedure described by this subsection.

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

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

(d) A property owners' association authorized to use the procedure described by Subsection (a) may in its discretion elect not to use that procedure and instead foreclose the association's assessment lien under court judgment foreclosing the lien and ordering the sale, pursuant to Rules 309 and 646a, Texas Rules of Civil Procedure.

(e) This section does not affect any right an association that is not authorized to use the procedure described by Subsection (a) may have to judicially foreclose the association's assessment lien as described by Subsection (d).

Sec. 209.0093. REMOVAL OR ADOPTION OF FORECLOSURE AUTHORITY.

A provision granting a right to foreclose a lien on real property for unpaid amounts due to a property owners' association may be removed from a dedicatory instrument or adopted in a dedicatory instrument by a vote of at least 67 percent of the total votes allocated to property owners in the property owners' association. Owners holding at least 10 percent of all voting interests in the property owners' association may petition the association and require a special meeting to be called for the purposes of taking a vote for the purposes of this section.

Sec. 209.0094. ASSESSMENT LIEN FILING.

A lien, lien affidavit, or other instrument evidencing the nonpayment of assessments or other charges owed to a property owners' association and filed in the official public records of a county is a legal instrument affecting title to real property.

Sec. 209.010. NOTICE AFTER FORECLOSURE SALE.

(a) A property owners' association that conducts a foreclosure sale of an owner's lot must send to the lot owner and to each lienholder of record, not later than the 30th day after the date of the foreclosure sale, a written notice stating the date and time the sale occurred and informing the lot owner and each lienholder of record of the right of the lot owner and lienholder to redeem the property under Section 209.011.

(b) The notice must be sent by certified mail, return receipt requested, to:

- (1) the lot owner's last known mailing address, as reflected in the records of the property owners' association;
- (2) the address of each holder of a lien on the property subject to foreclosure evidenced by the most recent deed of trust filed of record in the real property records of the county in which the property is located; and
- (3) the address of each transferee or assignee of a deed of trust described by Subdivision (2) who has provided notice to a property owners' association of such assignment or transfer. Notice provided by a transferee or assignee to a property owners' association shall be in writing, shall contain the mailing address of the transferee or assignee, and shall be mailed by certified mail, return receipt requested, or United States mail with signature confirmation to the property owners' association according to the mailing address of the property owners' association pursuant to the most recent management certificate filed of record pursuant to Section 209.004.

(b-1) If a recorded instrument does not include an address for the lienholder, the association does not have a duty to notify the lienholder as provided by this section.

(b-2) For purposes of this section, the lot owner is deemed to have given approval for the association to notify the lienholder.

(c) Not later than the 30th day after the date the association sends the notice required by Subsection (a), the association must record an affidavit in the real property records of the county in which the lot is located, stating the date on which the notice was sent and containing a legal description of the lot. Any person is entitled to rely conclusively on the information contained in the recorded affidavit.

(d) The notice requirements of this section also apply to the sale of an owner's lot by a sheriff or constable conducted as provided by a judgment obtained by the property owners' association.

Sec. 209.011. RIGHT OF REDEMPTION AFTER FORECLOSURE.

(a) A property owners' association or other person who purchases occupied property at a sale foreclosing a property owners' association's assessment lien must commence and prosecute a forcible entry and detainer action under Chapter 24 to recover possession of the property.

(b) The owner of property in a residential subdivision or a lienholder of record may redeem the property from any purchaser at a sale foreclosing a property owners' association's assessment lien not later than the 180th day after the date the association mails written notice of the sale to the owner and the lienholder under Section 209.010. A lienholder of record may not redeem the property as provided herein before 90 days after the date the association mails written notice of the sale to the lot owner and the lienholder under Section 209.010, and only if the lot owner has not previously redeemed.

(c) A person who purchases property at a sale foreclosing a property owners' association's assessment lien may not transfer ownership of the property to a person other than a redeeming lot owner during the redemption period.

(d) To redeem property purchased by the property owners' association at the foreclosure sale, the lot owner or lienholder must pay to the association:

- (1) all amounts due the association at the time of the foreclosure sale;
- (2) interest from the date of the foreclosure sale to the date of redemption on all amounts owed the association at the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;
- (3) costs incurred by the association in foreclosing the lien and conveying the property to the lot owner, including reasonable attorney's fees;
- (4) any assessment levied against the property by the association after the date of the foreclosure sale;
- (5) any reasonable cost incurred by the association, including mortgage payments and costs of repair, maintenance, and leasing of the property; and
- (6) the purchase price paid by the association at the foreclosure sale less any amounts due the association under Subdivision (1) that were satisfied out of foreclosure sale proceeds.

(e) To redeem property purchased at the foreclosure sale by a person other than the property owners' association, the lot owner or lienholder:

- (1) must pay to the association:
 - (A) all amounts due the association at the time of the foreclosure sale less the foreclosure sales price received by the association from the purchaser;
 - (B) interest from the date of the foreclosure sale through the date of redemption on all amounts owed the association at

the rate stated in the dedicatory instruments for delinquent assessments or, if no rate is stated, at an annual interest rate of 10 percent;

(C) costs incurred by the association in foreclosing the lien and conveying the property to the redeeming lot owner, including reasonable attorney's fees;

(D) any unpaid assessments levied against the property by the association after the date of the foreclosure sale; and

(E) taxable costs incurred in a proceeding brought under Subsection (a); and

(2) must pay to the person who purchased the property at the foreclosure sale:

(A) any assessments levied against the property by the association after the date of the foreclosure sale and paid by the purchaser;

(B) the purchase price paid by the purchaser at the foreclosure sale;

(C) the amount of the deed recording fee;

(D) the amount paid by the purchaser as ad valorem taxes, penalties, and interest on the property after the date of the foreclosure sale; and

(E) taxable costs incurred in a proceeding brought under Subsection (a).

(f) If a lot owner or lienholder redeems the property under this section, the purchaser of the property at foreclosure shall immediately execute and deliver to the redeeming party a deed transferring the property to the lot owner. If a purchaser fails to comply with this section, the lot owner or lienholder may file an action against the purchaser and may recover reasonable attorney's fees from the purchaser if the lot owner or the lienholder is the prevailing party in the action.

(g) If, before the expiration of the redemption period, the redeeming lot owner or lienholder fails to record the deed from the foreclosing purchaser or fails to record an affidavit stating that the lot owner or lienholder has redeemed the property, the lot owner's or lienholder's right of redemption as against a bona fide purchaser or lender for value expires after the redemption period.

(h) The purchaser of the property at the foreclosure sale or a person to whom the person who purchased the property at the foreclosure sale transferred the property may presume conclusively that the lot owner or a lienholder did not redeem the property unless the lot owner or a lienholder files in the real property records of the county in which the property is located:

(1) a deed from the purchaser of the property at the foreclosure sale; or

(2) an affidavit that:

(A) states that the property has been redeemed

(B) contains a legal description of the property; and

(C) includes the name and mailing address of the person who redeemed the property.

(i) If the property owners' association purchases the property at foreclosure, all rent and other income collected by the association from the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the association under Subsection (d), and if there are excess proceeds, they shall be refunded to the lot owner. If a person other than the association purchases the property at foreclosure, all rent and other income collected by the purchaser from the date of the foreclosure sale to the date of redemption shall be credited toward the amount owed the purchaser under Subsection (e), and if there are excess proceeds, those proceeds shall be refunded to the lot owner.

(j) If a person other than the property owners' association is the purchaser at the foreclosure sale, before executing a deed transferring the property to the lot owner, the purchaser shall obtain an affidavit from the association or its authorized agent stating that all amounts owed the association under Subsection (e) have been paid. The association shall provide the purchaser with the affidavit not later than the 10th day after the date the association receives all amounts owed to the association under Subsection (e). Failure of a purchaser to comply with this subsection does not affect the validity of a redemption.

(k) Property that is redeemed remains subject to all liens and encumbrances on the property before foreclosure. Any lease entered into by the purchaser of property at a sale foreclosing an assessment lien of a property owners' association is subject to the right of redemption provided by this section and the lot owner's right to reoccupy the property immediately after redemption.

(l) If a lot owner makes partial payment of amounts due the association at any time before the redemption period expires but fails to pay all amounts necessary to redeem the property before the redemption period expires, the association shall refund any partial payments to the lot owner by mailing payment to the owner's last known address as shown in the association's records not later than the 30th day after the expiration date of the redemption period.

(m) If a lot owner or lienholder sends by certified mail, return receipt requested, a written request to redeem the property on or before the last day of the redemption period, the lot owner's or lienholder's right of redemption is extended until the 10th day after the date the association and any third party foreclosure purchaser provides written notice to the redeeming party of the amounts that must be paid to redeem the property.

(n) After the redemption period and any extended redemption period provided by Subsection (m) expires without a redemption of the property, the association or third party foreclosure purchaser shall record an affidavit in the real property records of the county in which the property

is located stating that the lot owner or a lienholder did not redeem the property during the redemption period or any extended redemption period.

(o) The association or the person who purchased the property at the foreclosure sale may file an affidavit in the real property records of the county in which the property is located that states the date the citation was served in a suit under Subsection (a) and contains a legal description of the property. Any person may rely conclusively on the information contained in the affidavit.

(p) The rights of a lot owner and a lienholder under this section also apply if the sale of the lot owner's property is conducted by a constable or sheriff as provided by a judgment obtained by the property owners' association.

Sec. 209.012. RESTRICTIVE COVENANTS GRANTING EASEMENTS TO CERTAIN PROPERTY OWNERS' ASSOCIATIONS.

(a) A property owners' association may not amend a dedicatory instrument to grant the property owners' association an easement through or over an owner's lot without the consent of the owner.

(b) This section does not prohibit a property owners' association from adopting or enforcing a restriction in a dedicatory instrument that allows the property owners' association to access an owner's lot to remedy a violation of the dedicatory instrument.

Sec. 209.013. AUTHORITY OF ASSOCIATION TO AMEND DEDICATORY INSTRUMENT.

(a) A dedicatory instrument created by a developer of a residential subdivision or by a property owners' association in which the developer has a majority of the voting rights or that the developer otherwise controls under the terms of the dedicatory instrument may not be amended during the period between the time the developer loses the majority of the voting rights or other form of control of the property owners' association and the time a new board of directors of the association assumes office following the loss of the majority of the voting rights or other form of control.

(b) A provision in a dedicatory instrument that violates this section is void and unenforceable.

Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO CALL REGULAR MEETING.

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

(b) If a board of a property owners' association does not call an annual meeting of the association members, an owner may demand that a meeting of the association members be called not later than the 30th day after the date of the owner's demand. The owner's demand must be made in writing

and sent by certified mail, return receipt requested, to the registered agent of the property owners' association and to the association at the address for the association according to the most recently filed management certificate. A copy of the notice must be sent to each property owner who is a member of the association.

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

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

- (1) a statement that an election committee has been formed to call a meeting of owners who are members of the property owners' association for the sole purpose of electing board members;
- (2) the name and residential address of each committee member; and
- (3) the name of the subdivision over which the property owners' association has jurisdiction under a dedicatory instrument.

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

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

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

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

Sec. 209.015. REGULATION OF LAND USE: RESIDENTIAL PURPOSE.

(a) In this section:

(1) "Adjacent lot" means:

(A) a lot that is contiguous to another lot that fronts on the same street;

(B) with respect to a corner lot, a lot that is contiguous to the corner lot by either a side property line or a back property line; or

(C) if permitted by the dedicatory instrument, any lot that is contiguous to another lot at the back property line.

(2) "Residential purpose" with respect to the use of a lot:

(A) means the location on the lot of any building, structure, or other improvement customarily appurtenant to a residence, as opposed to use for a business or commercial purpose; and

(B) includes the location on the lot of a garage, sidewalk, driveway, parking area, children's swing or playscape, fence, septic system, swimming pool, utility line, or water well and, if otherwise specifically permitted by the dedicatory instrument, the parking or storage of a recreational vehicle.

(b) Except as provided by this section, a property owners' association may not adopt or enforce a provision in a dedicatory instrument that prohibits or restricts the owner of a lot on which a residence is located from using for residential purposes an adjacent lot owned by the property owner.

(c) An owner must obtain the approval of the property owners' association or, if applicable, an architectural review authority, as defined by Section 209.00505(a), established by the association or the association's dedicatory instruments, based on criteria prescribed by the dedicatory instruments specific to the use of a lot for residential purposes, including reasonable restrictions regarding size, location, shielding, and aesthetics of the residential purpose, before the owner begins the construction, placement, or erection of a building, structure, or other improvement for the residential purpose on an adjacent lot.

(d) An owner who elects to use an adjacent lot for residential purposes under this section shall, on the sale or transfer of the lot containing the residence:

(1) include the adjacent lot in the sales agreement and transfer the lot to the new owner under the same dedicatory conditions; or

(2) restore the adjacent lot to the original condition before the addition of the improvements allowed under this section to the extent that the lot would again be suitable for the construction of a separate residence as originally platted and provided for in the conveyance to the owner.

(e) An owner may sell the adjacent lot separately only for the purpose of the construction of a new residence that complies with existing

requirements in the dedicatory instrument unless the lot has been restored as described by Subsection (d) (2).

(f) A provision in a dedicatory instrument that violates this section is void.

Sec. 209.016. REGULATION OF RESIDENTIAL LEASES OR RENTAL AGREEMENTS.

(a) Repealed by Acts 2021, 87th Leg., R.S., Ch. 951 (S.B. 1588), Sec. 22(3), eff. September 1, 2021.

(b) A property owners' association may not adopt or enforce a provision in a dedicatory instrument that:

- (1) requires a lease or rental applicant or a tenant to be submitted to and approved for tenancy by the property owners' association; or
- (2) requires the following information to be submitted to a property owners' association regarding a lease or rental applicant or current tenant:
 - (A) a consumer or credit report; or
 - (B) a lease or rental application submitted by the applicant, tenant, or that person's agent to the property owner or property owner's agent when applying for tenancy.

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 951 (S.B. 1588), Sec. 22(3), eff. September 1, 2021.

(d) Nothing in this section shall be construed to prohibit the adoption or enforcement of a provision in a dedicatory instrument establishing a restriction relating to occupancy or leasing.

(e) A property owners' association may request the following information to be submitted to the association regarding a lease or rental applicant:

- (1) contact information, including the name, mailing address, phone number, and e-mail address of each person who will reside at a property in the subdivision under a lease; and
- (2) the commencement date and term of the lease.

Sec. 209.017. JUSTICE COURT JURISDICTION.

An owner of property in a subdivision may bring an action for a violation of this chapter against the property owners' association of the subdivision in the justice court of a precinct in which all or part of the subdivision is located.