

Tex. Prop. Code Sec. 209.005. ASSOCIATION RECORDS.

Applies to all POAs:

GENERAL PROVISIONS:

- 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.

- 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 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.

-An owner or the owner's authorized representative must submit a written request for access or information

- 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.

- 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.

- 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.

- 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.

- If the property owners' association is unable to produce the books or records requested 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:

- 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

- 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 is given.

- 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.

- POA may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.

#### RECORDS PRODUCTION POLICY

- A POA 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.

- 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.

- POA 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, or if 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 a court orders the release of the books and records or orders that the books and records be made available for inspection.

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## DOCUMENT RETENTION POLICY

Applies to 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 five years;
- (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 and audit records shall be retained for seven years.

## ENFORCEMENT

- 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) 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 (2) from any future regular or special assessments payable to the property owners' association.

- If the POA prevails, the association is entitled to a judgment for court costs and attorney's fees incurred by the association in connection with the action.

- 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, certified mail, return receipt requested, to the association of the person's intent to bring the action. The notice must: describe with sufficient detail the books and records being requested.

Effective January 1, 2012.

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Tex. Prop. Code Sec. 209.0051. OPEN BOARD MEETINGS.

- board meeting 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;

- 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.

- 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.

- 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.

- 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,

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

- provided at least 72 hours before the start of the meeting by posting the notice in a conspicuous manner reasonably designed to provide notice to property owners' association members 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 on any Internet website maintained by the association or other Internet media, and sending the notice by e-mail to each owner who has registered an e-mail address with the association (owner's duty).

- 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

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continues the meeting to another day, the board shall give notice of the continuation in at least one manner prescribed above within two hours after adjourning the meeting being continued.

- a board may meet by any method of communication, including electronic and telephonic, without prior notice to owners, if each director may hear and be heard by every other director, or the board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate board action. Any action taken without notice to owners 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, without prior notice to owners, 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; or
- (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.

Effective January 1, 2012.

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## ELECTIONS AND VOTING

### Tex. Prop. Code Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE.

- Not later than the 10th day or earlier than the 60th day before the date of an election or vote, a property owners' association shall give written notice of the election or vote to each owner of property in the property owners' association, for purposes of an association-wide election or vote; or 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.

- This section supersedes any contrary requirement in a dedicatory instrument.

### Sec. 209.0057. RECOUNT OF VOTES

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

(1) by certified mail, return receipt requested, 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; or

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

- 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 is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity and 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 the persons requesting the recount.

- Any recount must be performed on or before the 30th day after the date of receipt of a request and payment for a recount.

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- If the recount changes the results of the election, the property owners' association shall reimburse the requesting owner for the cost of the recount.

- The property owners' association shall provide the results of the recount to each owner who requested the recount.

- 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.

Effective January 1, 2012.

Tex. Prop. Code Sec. 209.0058. BALLOTS.

- 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.

- Electronic votes (e-mail, fax, or posted on an Internet website) constitute written and signed ballots.

- In an association-wide election, written and signed ballots are not required for uncontested races.

(Two bills with same provision, one effective September 1, 2011, the other January 1, 2012)

Tex. Prop. Code Sec. 209.0059. RIGHT TO VOTE.

- A provision in a declaration 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.

(Two bills with same provision, one effective September 1, 2011, the other January 1, 2012.)

Tex. Prop. Code Sec. 209.00592. VOTING; QUORUM.

- 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.

- An absentee or electronic ballot:

- may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot

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- 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

- 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.

- 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."

- For the purposes of this section, "electronic ballot" means a ballot given by e-mail, facsimile, or posting on an Internet website, for which the identity of the property owner submitting the ballot can be confirmed and for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

- 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.

- This section supersedes any contrary provision in a dedicatory instrument.

(Same provision in two bills as 209.00592, effective January 1, 2012 and 209.00593 effective September 1, 2011)

#### Tex. Prop Code Sec. 209.00594. TABULATION OF AND ACCESS TO BALLOTS.

- 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 may not tabulate or otherwise be given access to the ballots cast in that election or vote except.

- A person who tabulates votes in an association election or vote may not disclose to any other person how an individual voted.

- person other than a person who tabulates votes may be given access to the ballots cast in the election or vote only as part of a recount process authorized by law.

Effective September 1, 2011.



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

A- board of a property owners' association shall call an annual meeting of the members of the association.

- 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.

- 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, 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.

-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.

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

- 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.

- 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.

Effective January 1, 2012.

Tex. Prop. Code Sec. 209.00591. BOARD MEMBERSHIP.

- 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.

- 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 has been convicted of a felony or crime involving moral turpitude, 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.

- 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, 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.

Effective January 1, 2012.

Tex. Prop. Code Sec. 209.00593. ELECTION OF BOARD MEMBERS.

- Any board member whose term has expired must be elected by owners who are members of the property owners' association. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member.

- The appointment of a board member in violation of this section is void.

- This section does not apply to the appointment of a board member during a development period

- 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.

Effective January 1, 2012.

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## ASSESSMENTS, COLLECTION, AND FORECLOSURE

### Tex. Prop. Code Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS.

Applies to a POA composed of more than 14 lots.

- POA shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments for delinquent regular or special assessments or any other amount owed to the association *without accruing additional monetary penalties*. Monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

- The minimum term for a payment plan offered by a POA is three months. POA may not 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.

- POA shall file the association's guidelines under this section in the real property records of each county in which the subdivision is located.

-POA'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.

Effective January 1, 2012.

### Tex. Prop. Code Sec. 209.0063. PRIORITY OF PAYMENTS.

- Payment received from the owner shall be applied to the owner's debt in the following order of priority:

- (1) any delinquent assessment;
  - (2) any current assessment;
  - (3) any attorney's fees or 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 attorney's fees incurred by the association that are not subject to Subdivision (3);
  - (5) any fines assessed by the association; and
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(6) any other amount owed to the association.

- If, at the time the POA receives a payment from a property owner, the owner is in default under a payment plan, the association is not required to apply the payment in the order of priority specified above, but in applying the payment, a fine assessed by the association may not be given priority over any other amount owed to the association.

Effective January 1, 2012.

#### Tex. Prop. Code 209.0064 THIRD PARTY COLLECTIONS.

- POA may not hold an owner liable for fees of a collection agent retained unless the association first provides written notice to the owner by certified mail, return receipt requested, that:

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

(2) 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 30 days for the owner to cure the delinquency before further collection action is taken.

- 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.

- 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.

- 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.

Effective January 1, 2012.

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Tex. Prop. Code Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES.

- POA 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). (Copies of Associations Records)

Effective January 1, 2012.

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

- POA may not foreclose a property owners' association assessment lien on real property by giving notice of sale under Section 51.002 or commencing a judicial foreclosure action 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 recipient receives the notice.

- Notice under this section must be sent by certified mail, return receipt requested, 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.

Effective January 1, 2012.

Tex. Prop. Code Sec. 209.0092. JUDICIAL FORECLOSURE REQUIRED.

*Note: We do not know how this is to work yet.*

- POA may not foreclose an 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. Effective January 1, 2012.

- 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. Effective September 1, 2011.

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- 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. Effective January 1, 2012.

Tex. Prop. Code 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 POA 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.

Effective January 1, 2012.

Tex. Prop. Code 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.

*Note: this means that all lien affidavits must be prepared and filed by attorneys or it is an unauthorized practice of law.*

Effective January 1, 2012.

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## MISCELLANEOUS

### Tex. Prop. Code Sec. 209.0041. ADOPTION OR AMENDMENT OF CERTAIN DEDICATORY INSTRUMENTS.

- A declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners in the property owners' association, in addition to any governmental approval required by law. If the declaration contains a lower percentage, the percentage in the declaration controls.

- This section does not apply to the amendment of a declaration during a development period.

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

- This section supersedes any contrary requirement in the Declaration.

- A bylaw may not be amended to conflict with the declaration.

Effective September 1, 2011.

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

(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; and

(2) inform the owner that the owner:

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

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

Effective January 1, 2012.

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## **ODDS & ENDS**

### **SALES - RESALE CERTIFICATE**

- adds disclosure of all transfer-related fees
- POA has more time to issue the resale certificate (*10 business days*)
- Purchasers who request resale certificates must provide proof of contract
- Resale certificate good for 60 days max
- Gives POA right to collect fees from home purchasers (who are not yet members of POA)
- POA can require prepayment, but can't process the payment until certificate is prepared timely and ready for delivery

**USES - FLAGS.** Subject to some limitations, POA may regulate but can't prevent owner from flying flags of US, Texas, or military. POA may require compliance with federal & state recommended guidelines for flag displays.

### **DOCUMENTS – AVAILABILITY**

Dedictory instruments must be available on a website IF (1) the POA has one, or (2) the POA manager maintains a publicly accessible website on behalf of the POA.

**USES - RAIN BARRELS.** SECTION 6 of bill pertains to POAs. Substantially dilutes the POA's regulation of rain harvesting devices, by removing rain barrels from the POA's affirmative regulatory powers under 202.007(d)(1), and creating a veneer of regulatory authority in a new 202.007(d)(6)&(7).

**USES - RELIGIOUS.** POA can't stop residents from installing certain religious items on front door of unit/home. Max size of 25 sq. inches. The item must be a "display motivated by a resident's sincere religious belief."

**USES - ROOFS.** Owner may install roof shingles that are wind & hail resistant, energy efficient, or solar generating, if quality and appearance are comparable to the subdivision standard.

**USES - SOLAR.** Owner may install a "solar energy device" in certain locations on his lot. Some oversight by POA. Detailed specs for roof installations. Developer may prohibit installs during development period.

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