

By: _____

___B. No. _____

A BILL TO BE ENTITLED

AN ACT

relating to non-substantive revisions to sections of the Texas Property Code referencing Vernon's Texas Civil Statutes.

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

SECTION 1. Chapter 82 of the Texas Property Code, is amended by revisions to Section 82.101 as follows:

Sec. 82.101. ORGANIZATION OF UNIT OWNERS' ASSOCIATION. A unit owners' association must be organized as a profit or nonprofit corporation. The declarant may not convey a unit until the secretary of state has issued a certificate of incorporation under **Article 3.03, Texas Business Corporation Act, or Article 3.03, Texas NonProfit Corporation Act** (~~Article 1396 3.03, Vernon's Texas Civil Statutes, Chapter 22, Business Organizations Code~~). The membership of the association at all times consists exclusively of all the unit owners or, following termination of the condominium, all former unit owners entitled to distribution of proceeds, or the owners' heirs, successors, or assigns.

SECTION 2. Chapter 82 of the Texas Property Code, is amended by revisions to Section 82.108 as follows:

Sec. 82.108. MEETINGS. (a) Meetings of the association must be held at least once each year. Unless the declaration provides otherwise, special meetings of the association may be called by the president, a majority of the board, or unit owners having at least 20 percent of the votes in the association.

(b) Meetings of the association and board must be open to unit owners, subject to the right of the board to adjourn a meeting of the board and reconvene in closed executive session

to consider actions involving personnel, pending litigation, contract negotiations, enforcement actions, matters involving the invasion of privacy of individual unit owners, or matters that are to remain confidential by request of the affected parties and agreement of the board. The general nature of any business to be considered in executive session must first be announced at the open meeting.

(c) ~~Unless the declaration, bylaws, or articles of incorporation of the association provide otherwise~~ Per Chapter 22, Business Organizations Code, 22.002:

(1) a meeting of the board and the association may be held by any method of communication, including electronic and telephonic, if:

(A) notice of the meeting has been given in accordance with Subsection (e);

(B) each director may hear and be heard by every other director; and

(C) the meeting does not involve voting on a fine, damage assessment, appeal from a denial of architectural control approval, or suspension of a right of a particular association member before the member has an opportunity to attend a board meeting to present the member's position, including any defense, on the issue; and

(2) the board may act by unanimous written consent of all the directors, without a meeting, if:

(A) the board action does not involve voting on a fine, damage assessment, appeal from a denial of architectural control approval, or suspension of a right of a particular association member before the member has an opportunity to attend a board meeting to present the member's position, including any defense, on the issue; and

(B) a record of the board action is filed with the minutes of board meetings.

(d) Notice of a meeting of the association must be given as provided by the bylaws, or, if the bylaws do not provide for notice, notice must be given to each unit owner in the same

manner in which notice is given to members of a nonprofit corporation under ~~Section A, Article 2.11, Texas Non Profit Corporation Act (Article 1396 2.11 Vernon's Texas Civil Statutes)~~Chapter 22, Business Organizations Code, 22.156.

(e) Notice of a meeting of the board must be given as provided by the bylaws, or, if the bylaws do not provide for notice, notice must be given to each board member in the same manner in which notice is given to members of the board of a nonprofit corporation under ~~Section B, Article 2.19, Texas Non Profit Corporation Act (Article 1396 2.19 Vernon's Texas Civil Statutes)~~Chapter 22, Business Organizations Code, 22.217.

(f) An association, on the written request of a unit owner, shall inform the unit owner of the time and place of the next regular or special meeting of the board. If the association representative to whom the request is made does not know the time and place of the meeting, the association promptly shall obtain the information and disclose it to the unit owner or inform the unit owner where the information may be obtained.

SECTION 3. Chapter 82 of the Texas Property Code, is amended by revisions to Section 82.110 as follows:

Sec. 82.110. VOTING AND PROXIES. (a) If only one of the multiple owners of a unit is present at a meeting of the association, that person may cast the vote or votes allocated to that unit. If more than one of the multiple owners is present, the vote or votes allocated to that unit may be cast only in accordance with the owners' unanimous agreement unless the declaration provides otherwise. Multiple owners are in unanimous agreement if one of the multiple owners casts the votes allocated to a unit and none of the other owners makes prompt protest to the person presiding over the meeting.

(b) Votes allocated to a unit may be cast under a written proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a proxy duly executed by the unit owner. A unit owner may not revoke a proxy given under this section except by giving

actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or if it purports to be revocable without notice. A proxy terminates one year after its date unless it specifies a shorter or longer time.

(c) Cumulative voting is not allowed.

(d) Electronic voting is allowed and may be cast pursuant to Chapter 22 and 6,

Business Organizations Code, 22.002 and 6.002.

SECTION 4. Chapter 209 of the Texas Property Code, is amended by revisions to Section 209.0056 as follows:

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.

(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) Per Chapter 22 and 6, Business Organizations Code, 22.002 and 6.002, a meeting of the owners held under this section may be held by any method of communication, including electronic and telephonic means.

SECTION 5. Chapter 209 of the Texas Property Code, is amended by revisions to Section 209.00592 as follows:

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 at least one of the following voting methods: (i) absentee ballot; (ii) proxy; or (ii) electronic ballot.

(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.

(g) 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.