

BILL ANALYSIS

Senate Research Center

H.B. 3674
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The unique design of property owners' associations (POAs) have traditionally made some POAs subject to provisions in Texas law that would allow for property owners to access open records, hold open meetings, and conduct POA election voting. Operational transparency is a necessary part of federal, state, and local government. No POAs should be excluded from such transparency. While some POAs are currently structured in such a way to make their records and meetings available to all members, other POAs structure themselves in a way that intentionally avoids this transparency. Originally, many POAs were founded for civic, educational, or recreational purposes, but over the years the purposes of POAs has changed to include deed enforcement, architectural constraints, and other governance issues. However, as laws have changed to regulate the activities of some POAs, other POAs have altered their own organizational structure to avoid such regulation.

Furthermore, there has been an ongoing controversy occurring in the Clear Lake area as to the conduct of particular POAs, including failure to respond to information requests of property owners and the closing of formerly public meetings to prevent property owner contributions to meetings. Additionally, there is the issue of property owners being unreasonably excluded from POA elections based solely on pending enforcement actions or pending assessments or dues.

H.B. 3674 expands some of the laws governing POAs, including open records, open meetings, and some election provisions, to ensure that the Clear Lake City Community Association is covered.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 551.0015(a), Government Code, to include certain property owners' associations (associations) as subject to this chapter (Open Meetings) in the same manner as a governmental body. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Section 552.0036, Government Code, to include certain associations as subject to this chapter (Public Information) in the same manner as a governmental body. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Section 209.005, Property Code, by adding Subsection (a-1), to require an association described by Section 552.0036(2), Government Code, to make the books and records of the association, including financial records, reasonably available to any person requesting access to the books or records in accordance with Chapter 552, Government Code. Provides that Subsection (a) (relating to association records) does not apply to an association to which this subsection applies.

SECTION 4. Amends Section 209.003(b), Property Code, to provide exceptions to this provision otherwise provided in this chapter (Texas Residential Property Owners Protection Act).

SECTION 5. Amends Chapter 209, Property Code, by adding Section 209.0055, as follows:

Sec. 209.0055. VOTING. (a) Sets forth the associations to which this section applies.

(b) Prohibits an association described by Subsection (a) from barring a property owner from voting in an association election solely based on the fact that there is a pending enforcement action against the property owner or that the property owner owes the association any delinquent assessments, fees, or fines.

SECTION 6. (a) Makes application of Section 551.0015, Government Code, as amended by this Act, prospective.

(b) Makes application of Section 552.0036, Government Code, as amended by this Act, prospective.

(c) Makes application of Section 209.005, Property Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2007.