

FINAL BILL REPORT

ESHB 1471

C 283 L 95

Synopsis as Enacted

Brief Description: Regulating homeowners' associations.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Padden and Appelwick).

House Committee on Law & Justice
Senate Committee on Law & Justice

Background: A homeowners' association is an organization formed in a planned unit community or given homeowners' area to provide management and maintenance for common areas in the community, such as parks, lakes, roads, and community centers. Often these associations are formed by the land developer or the builder of planned unit developments pursuant to a restrictive covenant or a contract. Homeowners' associations typically impose and collect assessments on each owner of property in the community for the maintenance and repair of the common areas. In addition, homeowners' associations may adopt rules concerning property use in the community and may impose fines for violations of those rules.

Currently, there is no statutory law that specifically addresses the organization, management, and powers of homeowners' associations. Homeowners' associations may organize as nonprofit associations governed by their own rules and procedures. In addition, homeowners associations may organize as nonprofit corporations.

Nonprofit corporations are managed by a board of directors and officers. The powers of a nonprofit corporation include the power to sue and be sued, engage in property transactions, lend money, make contracts, and incur liabilities. A nonprofit corporation may not issue stock, make income disbursements to members, officers, or directors, or make loans or advance credit to directors or officers. If provided in the articles of incorporation, a nonprofit corporation may make and collect assessments based on the value of the property owned by members of the corporation.

Summary: A new chapter is created governing the formation and administration of homeowners' associations. A "homeowners' association" is a corporation, unincorporated association, or other legal entity, each member of which is an owner of residential real property located within the association's jurisdiction and who is obligated to pay real property taxes, insurance premiums, maintenance costs, or improvement costs for real property other than that which is owned by the member.

The membership of an association consists exclusively of the owners of all real property over which the association has jurisdiction.

The association's "governing documents" include the articles of incorporation, bylaws, plat, declaration of covenants, conditions, and restrictions, rules and regulations of the association, or other written instrument which authorizes the association to exercise powers over property under its jurisdiction.

The powers of an association include the power to: (1) adopt and amend bylaws, rules, and regulations; (2) adopt and amend budgets and impose and collect assessments for common expenses from owners; (3) make contracts and incur liabilities; (4) regulate the use, maintenance, repair, replacement, and modification of common areas; (5) acquire, hold, encumber, and convey interests in real property; and (6) impose and collect charges for late payments of assessments and levy reasonable fines for violations of the bylaws, rules, and regulations of the association. An association may only impose fines for violations of the bylaws, rules, or regulations of the association after notice and an opportunity to be heard.

Officers and directors of an association shall act in all instances on behalf of the association and shall exercise the degree of care and loyalty required of an officer or director of a nonprofit corporation. The board of directors shall not act on behalf of the association to amend the articles of incorporation, to take any action that requires the vote or approval of the owners, to terminate the association, to elect members of the board of directors, or to determine the qualifications, powers, and duties, or terms of office of members of the board of directors.

Any budget adopted by the board of directors may be rejected by a majority vote of the owners of the association, either in person or by proxy. The owners may remove any member of the board of directors with or without cause by a majority vote, in person or by proxy, at a meeting at which a quorum of the owners is present.

The bylaws shall provide for: (1) the number, qualifications, powers and duties, terms of office, and manner of election of the board of directors; (2) the manner of election of the officers by the board of directors; (3) which powers the officers or directors may delegate to a managing agent; and (4) the method of amending the bylaws.

The association must hold at least one meeting per year, and special meetings may be called by the president, a majority of the board of directors, or by owners having 10 percent of the votes in the association. Notice of the special meetings must be mailed at least 14 days, and no more than 60 days, in advance of the meeting and must contain the time, place, and purpose of the meeting. All meetings of the board of directors must be open for observation by all owners of record and their authorized agents. The board may meet in closed executive session to consider certain matters

upon an affirmative vote in open session. All actions passed or agreed to in closed session become effective only after the board reconvenes and votes on the action in open meeting.

The association is required to keep financial records and prepare an annual financial statement. Associations with annual assessments of \$50,000 or more shall be audited annually by an independent certified public accountant unless the owners vote to waive the audit. All records of the association are available for examination by all owners, holders of mortgages on the lots, and their respective agents on reasonable advance notice.

A violation of the act entitles an aggrieved party to any available legal or equitable remedy and, if appropriate, an award of reasonable attorney's fees.

Votes on Final Passage:

House	82	13	
Senate	44	4	(Senate amended)
House			(House refused to concur)
Senate	45	1	(Senate amended)
House	88	8	(House concurred)

Effective: July 23, 1995